

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

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

NINETY SEVENTH REPORT

(Presented on ^{28th}~~26~~ January, 2026)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2026

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

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on

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

CONTENTS

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

COMPOSITION

COMMITTEE ON PUBLIC ACCOUNTS (2023-2026)

Chairperson :

Shri .Sunny Joseph

Members :

Shri . Manjalamkuzhi Ali

Shri . M. V. Govindan Master.

DR . K.T. Jaleel

Shri . C.H. Kunhambu

Shri. Mathew T. Thomas

Shri .M. Rajagopalan

Shri. P.S. Supal

Shri. Thomas K. Thomas

Shri . K.N. Unnikrishnan

Shri. M. Vincent.

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.

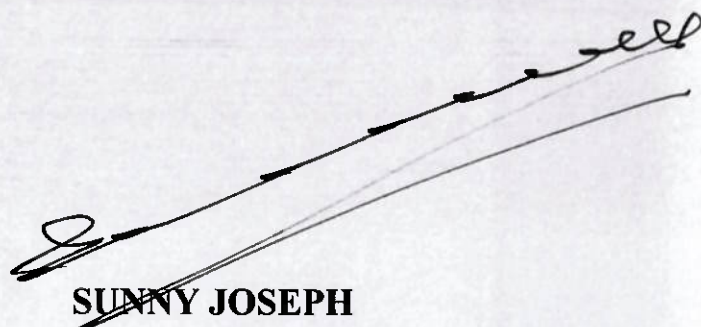
INTRODUCTION

I, the Chairperson, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Ninety Seventh Report on paragraphs relating to Taxes Department contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2016 (Revenue Sector).

The Report of the Comptroller and Auditor General of India for the year ended 31st March 2016 was laid on the Table of the House on 06th March 2017.

The Committee considered and finalised this Report at the meeting held on 20th January 2026.

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

A handwritten signature in black ink, appearing to read 'Sunny Joseph', is written over a series of horizontal lines. The signature is stylized and slanted upwards to the right.

SUNNY JOSEPH

CHAIRPERSON,

COMMITTEE ON PUBLIC ACCOUNTS.

Thiruvananthapuram,
28th January, 2026.

REPORT

TAXES DEPARTMENT

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by Government of Kerala during the year 2015-16, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grant-in-aid received from Government of India during the year and the corresponding figures for the preceding four years are mentioned in Table- 1.1.

Table - 1.1
Trend of revenue receipts¹

(₹ in crore)						
Sl. No.	Particulars	2011-12	2012-13	2013-14	2014-15	2015-16
1.	Revenue raised by the State Government					
	• Tax revenue	25,718.60	30,076.61	31,995.02	35,232.50	38,995.15
	• Non-tax revenue ¹	2,592.18 (2,228.97)	4,198.51 (3,272.25)	5,575.03 (4,059.49)	7,283.69 (5,097.95)	8,425.49 (5,902.45)
	Total	28,310.78 (27,947.57)	34,275.12 (33,348.86)	37,570.05 (36,054.51)	42,516.19 (40,330.45)	47,420.64 (44,897.60)
2.	Receipts from Government of India					
	• Share of net proceeds of divisible Union taxes and duties	5,990.36	6,840.65	7,468.68	7,926.29	12,690.67
	• Grants-in-aid	3,709.22	3,021.53	4,138.20	7,507.99	8,921.35
	Total	9,699.58	9,862.18	11,606.88	15,434.28	21,612.02
3.	Total revenue receipts of the State Government (1 and 2)	38,010.36 (37,647.15)	44,137.30 (43,211.04)	49,176.93 (47,661.39)	57,950.47 (55,764.73)	69,032.66 (66,509.62)
4.	Percentage of 1 to 3	74	78	76	73	69

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

The above table indicates that during the year 2015-16, the revenue raised by the State Government (₹47,420.64 crore)

¹The receipt from State lotteries for the year 2015-16 was ₹6,271.41 crore which was 74.43 per cent of non tax revenue. The difference between the figures shown in column and bracket represent expenditure on prize winning tickets of lotteries conducted by the Government

was 69 per cent of the total revenue receipts. The balance 31 per cent of the receipts during 2015-16 was from the Government of India.

1.1.2 The details of the tax revenue raised during the period 2011-12 to 2015-16 are given in **Table - 1.2**.

Table - 1.2
Details of Tax Revenue raised

Sl. No.	Head of revenue	₹ in crore)											
		2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+) or decrease (-) in 2015-16 over 2014-15	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual		
	0040 - Tax on sales, trade etc.	19,427.90	18,938.83	23,450.52	22,511.09	28,456.62	24,885.25	31,913.47	27,908.33	34,712.28	30,736.78	8.77	10.13
	0030 - Stamps and Registration fees	3,252.17	2,986.85	3,775.71	2,938.38	4,207.01	2,593.29	3,733.67	2,659.02	4,311.33	2,877.73	15.47	8.23
	0041 - Taxes on vehicles	1,410.73	1,587.13	1,694.49	1,924.62	2,570.65	2,161.09	2,799.82	2,364.95	3,087.35	2,814.30	10.27	19.00
	0039 - State Excise	2,059.05	1,883.18	2,550.65	2,313.95	2,801.75	1,941.72	3,208.36	1,777.42	2,600.66	1,964.16	(-)18.94	10.51
	0029 - Land Revenue	162.84	60.75	127.72	121.58	135.49	88.78	169.57	139.03	138.46	182.28	(-)18.35	31.11
	0043 - Taxes and Duties on Electricity	29.31	21.28	250.00	24.71	284.15	42.25	309.14	48.71	189.06	57.66	(-)38.84	18.37
	0022 - Taxes on Agricultural Income	14.49	42.86	15.98	18.92	23.99	21.55	26.35	8.60	28.33	2.01	7.51	(-)76.63
	Others ²	285.06	198.02	257.14	223.36	291.44	261.09	307.11	326.44	360.56	360.23	17.40	10.35
	Total	26,641.55	25,718.60	32,122.21	30,076.61	38,771.10	31,995.02	42,467.49	35,232.50	45,428.03	38,995.15	6.97	10.68

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

The respective Departments reported the following reasons for variation.

Commercial Taxes: The Department stated that the budget estimates are prepared considering the last year's collection by adding reasonable growth percentage to it. During the year, the decrease in actual receipts when compared to budget

estimates was due to the fall in collection from oil companies and certain commodities like motor vehicles, rubber, iron & steel, bar hotels, chicken and timber. The collection from motor vehicles decreased due to the recessionary trend in motor vehicles, which showed a growth rate of seven per cent increase during 2015-16 as against 23 per cent growth rate of previous years. The growth rate of petroleum products was only nine per cent as against 20 per cent growth rate in previous years. Also, rice, wheat, atta, maida, suji were exempted from tax.

Apart from the above, Audit found that the following reasons also attributed to the decrease in receipts when compared to estimates.

- (i) Failure of CTD to comply with the provisions of statute for taxation of gold, diamond and platinum.
- (ii) Laxity of enforcement and assessing officers in complying with the Act/Rules to identify, detect and to take remedial action against evasion of tax.
- (iii) Failure of the assessing officers to ensure that the turnover relating to exemption availed by the principal contractors were subjected to tax at the hands of the subcontractors.

In the case of agricultural income tax, the steep fall in price of rubber has affected collection severely and rubber was exempted from tax also.

Taxes on vehicles: There was a decrease in the actual receipts over the budget estimates for 2015-16. The Department stated that this was due to decrease in number of vehicles registered. Also, Audit found that the Department did not have an efficient system to levy road taxes on motor vehicles and enforcement of the conditions laid down in the permits and other related provisions of the Act/Rules by the

Department was weak which resulted in short realisation of motor vehicles tax and permit fees. The reason for increase in receipts for 2015-16 over 2014-15 was not furnished by the Department.

Land Revenue: The increase in revenue receipts from the budget estimates was due to the upward revision of basic tax. Plantation tax was abolished on the individuals holding plantations which resulted in decrease of revenue receipts when compared to budget estimates. The increase in receipts for the year 2015-16 over 2014-15 was due to enhancement of luxury tax, basic land tax and building tax.

Power: The Department stated (October 2016) that the increase in receipts for 2015-16 was due to increase in arrear collection. The decrease of actual receipts over budget estimates was related to electricity duty. The Department stated that the Kerala State Electricity Board Limited has neither adjusted nor remitted electricity duty, which was the reason for huge variation between budget estimates and receipts for the year.

Registration: The Department attributed the reason for the variation between the budget estimate and actual receipts for 2015-16 to short fall in number of documents registered during the year. There was increase in revenue receipts in 2015-16 when compared to that in 2014-15, which was due to enhancement in the fair value of land by fifty per cent.

Excise: There was decrease in the actual receipts when compared to the budget estimates for 2015-16. The Department explained the reason for this as the reduction in gallonage fee on beer to be paid by the Kerala State

Beverages Corporation Limited (KSBCL), reduction of annual rental of wholesale shops (FL-9) of liquor from ₹25 lakh to rupees one lakh, closure of outlets run by KSBCL and Consumerfed, reduction of annual rental of FL-1 shops from ₹63 lakh to rupees three lakh and reduction in sale of Indian Made Foreign Liquor.

Apart from the above, Audit found that failure of the Department to realise fine for unauthorised reconstitutions from companies and partnership firms and to realize fine from KSBCL for violating permit conditions in cases of shortage in consignment of liquor resulted in decrease of revenue as compared to the budget estimates for the year.

1.1.3 The details of non-tax revenue raised during the period 2011-12 to 2015-16 are indicated in Table - 1.3.

Table - 1.3 ³⁴⁵
Details of Non-Tax Revenue raised

(₹ in crore)

Sl. No	Head of Revenue	2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+) or decrease (-) in 2015-16 over 2014-15	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual		
1	0075-Miscellaneous General	462.05	919.53	1,381.20	1,747.51	2,307.00	2,280.15	2,875.00	3,259.14	4,105.60 ³	3,748.37 ⁴	42.80	15.01

3

?The District Lottery Officers are authorised to incur expenditure towards prize winning tickets (small denominations upto and including ₹100) by appropriating the receipts collected in the respective offices. The other expenditures are met from the budget allocation of the State. From gross receipts (budget estimates) of ₹6,366.70 crore, expenditure on prize winning tickets of lotteries (budget estimates) of ₹2,261.10 crore has been deducted.

4

?From gross receipts of ₹6,271.41 crore, expenditure of ₹2,523.04 crore on prize winning tickets has been deducted, but other expenditure like commission to agents (₹2,036.45 crore), establishment expenses (₹277.63 crore) etc. have not been deducted

5

?Receipts from Interest receipts, Medical and Public Health, Crop Husbandry, Animal Husbandry, Public Works, Other Administrative Services, Police, Co-operation, Major Irrigation Projects, Judiciary, Jail, Stationery, etc.

	Services 103- State Lotteries												
2	0406- Forestry and Wild life	330.12	220.52	321.2 6	237.33	328. 83	329.95	376.1 7	300.40	468.73	283.04	24.6 1	(-)5.7 8
3	0202- Education, Sports, Art and Culture	183.61	164.96	222.0 7	182.78	259. 18	308.13	253.1 5	246.41	369.71	243.63	46.0 4	(-)1.1 3
4	Others ⁵	1,306. 25	923.96	1,092. 08	1,104. 63	1,33 3.56	1,141. 26	1,473. 15	1,292. 00	1,725.9 8	1,627.4 1	17.1 6	25.96
	Total	2,282. 03	2,228. 97	3,016. 61	3,272. 25	4,22 8.57	4,059. 49	4,977. 47	5,097. 95	6,670.0 2	5,902.4 5	34.0 0	15.78

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

State Lotteries: The Department stated that there was increase in revenue receipts for the year 2015-16 when compared to that of 2014-15 due to increase in the sale of lottery tickets. Both the revenue and expenditure on the prize winning tickets also increased during the year. As a section of agents kept away from selling of lottery tickets, there was decrease of actual receipts when compared to budget estimates for the year.

Stationery: During the year 2015-16, there was decrease in stationery receipts over 2014-15 and decrease in the actual receipts over budget estimates for 2015- 16. The Department stated that the reason for decrease in revenue was due to failure of the Government undertakings in payment of stationery charges.

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

final felling areas and hence the estimated revenue could not be realised. It was also stated that notification and timber e-auction could not take place as desired due to model code of conduct in force during the Local Self Government elections. In some areas the trees could not be felled due to increase in unsold stock in nearby depots which resulted in decrease in revenue.

Agriculture: There was increase in actual receipt for 2015-16 over that of 2014- 15. The Director of Agriculture stated that this was due to increase in sale proceeds of seeds, seedlings and farm products. The increase in actual receipts over budget estimates for 2015-16 was because of importance given to the distribution of quality planting materials, introduction of new components such as dwarf coconut seedling production, hi-tech agriculture through farms etc.

Animal Husbandry: There was decrease in actual receipts over the budget estimate for 2015-16. This was due to heat stress and natural disasters badly affecting the farm animals and causing slight decrease in the farm production. The increase in receipts for 2015-16 over 2014-15 was due to increase in the sale of farm products and periodical revision in price of some farm products like milk, hen, egg, chicks etc.

Public Works: The increase in revenue of Public Works Department under Buildings for 2015-16 over 2014-15 was due to enhancement of rate in centage charges. The variation between budget estimates and actual receipts for 2015-16 was due to shortfall in other receipts and works and non occupancy of buildings.

Various divisions under PWD (Roads & Bridges) had transferred

huge pending unclaimed deposits to revenue and hence there was increase in revenue receipts. As 11 tolls across Kerala have been stopped, there was a slight decrease in toll collection.

Health Services: The increase in revenue receipts during 2015-16 over 2014-15 was due to variation in fee structure and amount received as auction sale of unserviceable articles. The details were not furnished by Printing Department (October 2016).

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2016 on some principal heads of revenue amounted to ₹2,323.02 crore of which ₹742.03 crore was outstanding for more than five years, as detailed in the Table - 1.4.

Table - 1.4
Arrears of revenue

(₹in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2016	Amount outstanding for more than 5 years as on 31 March 2016	Remarks of Departments
1.	0041- Taxes on vehicles	1,536.74	313.62	The Department stated (October 2016) that out of the total arrears of ₹1,536.74 crore, the dues from the Kerala State Road Transport Corporation is ₹1,264.33 crore and the balance of ₹272.41 crore is from individuals, private firms and private companies. It was also stated (October 2016) that a demand of ₹ 136.29 crore is covered by Revenue Recovery Certificate, ₹ 0.10 crore is under stay by High Court and other judicial authorities, recovery is held up on ₹0.27 crore due to rectification/ review of applications and ₹

				1,400.08 crore is under other States. The Department stated (October 2016) that revenue recovery action has been initiated for recovery of arrear amount.
2.	0406- Forestry and Wild Life	315.73	176.03	The Principal Chief Conservator of Forests stated (September 2016) that the nature of demand in the Forest Department includes value of timber, teak stumps, lease rent, penal interest, re-auction loss, centage charges etc. An amount of ₹0.68 crore pending for more than five years is due from Government of India, ₹0.23 crore from other State Governments, ₹57.35 crore from public sector undertakings of Government of India, ₹ 243.60 crore from public sector undertakings of Government of Kerala and other States and ₹ 13.87 crore from individuals, private companies etc. The Department attributed (September 2016) the reason for delay in collecting the revenue to pending revenue recovery steps against the defaulters, court cases, stay orders etc. The Department stated (September 2016) that necessary action has been initiated to realise the arrears of lease rent and other dues from departments and Public sector undertakings through discussions at Government level.
3.	0039- Excise	199.05	198.67	The Excise Commissioner stated (October 2016) that the abkari arrears in the Department are pending from 1952 onwards. The abkari arrears of ₹199.05 crore are due from individuals, private firms, private companies etc. Of this, an amount of ₹178.61 crore is pending realisation from 307 defaulters from whom rupees one lakh or more is due. The Department

				attributed (September 2016) the reasons for delay in collection of revenue to pending revenue recovery action and stay by court. The reason furnished by the Commissioner is not acceptable since only ₹ 52.39 crore (26.32 per cent) out of a total ₹199.05 crore were covered under judicial intervention.
4.	0055-Police	178.09	40.54	The Police Department stated (October 2016) that the nature of demand in the Police Department is cost of police guard. The Department stated (October 2016) that an amount of ₹ 122.06 crore is pending from Government of India, ₹ 12.96 crore from public sector undertakings of Government of India, ₹ 41.98 crore from public sector undertakings of Government of Kerala and ₹ 1.09 crore from individuals, private firms and private companies. The major defaulters were Southern Railway, KSEB and Ministry of Home Affairs.
5.	0070-60-110-Fees for Government audit	38.00	Not furnished	The Director, Kerala State Audit Department stated (August 2016) that the arrears of revenue pending collection towards audit charge are ₹15.16 crore from universities, ₹3.10 crore from Devaswom Boards, ₹0.94 crore from temples and ₹18.80 crore from miscellaneous institutions and development authorities. The Kerala State Audit Department attributed (August 2016) the reasons for pendency to the lack of initiative from auditee institutions in remitting the audit charge. The Director stated (August 2016) that demand notices are being sent to auditee institutions and proposals have been submitted to the Government for realising audit charge from the grants given to the auditee institutions.

6.	0030- Stamps and Registrat ion	29.52	Not furnished	The Registration Department stated (October 2016) that revenue pending collection in the Department is from 1986 onwards. Out of ₹ 29.52 crore, ₹ 3.81 crore is covered by revenue recovery certificates and ₹ 5.55 crore are under stay by courts and Government. The Department had not furnished the details of stages of action for the remaining amount of ₹ 20.16 crore
7.	0058- Printing and Stationer y	19.08	10.22	The Controller of Stationery stated (October 2016) that the amounts due to the Stationery Department are ₹ 16.84 lakh from Government of India, ₹ 18.75 crore from public sector undertakings of Government of Kerala, ₹ 14.30 lakh from public sector undertakings of Government of India and ₹ 2.04 lakh from local bodies. Out of ₹ 19.08 crore, ₹ 10.17 crore is likely to be written off. The Department stated (October 2016) that non-payment by the Departments/offices concerned is the reason for revenue pending collection.
8.	0230-10- Receipts under Labour laws	5.01	2.71	The Labour Commissioner stated (October 2016) that the nature of demand in the Labour Department was revenue receipts under labour laws. The amount of arrears of ₹ 5.01 crore is pending collection from individuals, private firms and private companies. The reasons for delay in collection of revenue were nonsubmission of application for renewal of registration and negligence from the employers in renewing the registration certificates in due time. The Labour Commissioner stated (October 2016) that inspection and follow up action is being

				taken to realise the arrears.
9.	0230-103-Labour and Employment	0.82	0.02	The Director of Factories and Boilers stated (June 2016) that the nature of demand of the Department of Factories and Boilers was fee for renewal of licence of factories. An amount of ₹ 1.11 lakh and ₹ 80.69 lakh are due from public sector under takings of Government of Kerala and individuals, private firms and private companies respectively. The Director stated (June 2016) that the delay in collection was due to the fact that most of the factories, which have arrears, are not working.
10.	0823-Non-Ferrous Mining and Metallurgical Industries	0.98	0.22	The Director of Mining & Geology stated (June 2016) that the main source of revenue is from the grant of mineral concessions and realisation of royalty of minerals. The arrears of revenue pending collection are ₹0.30 crore from Cooperative Society, ₹0.29 crore from public sector undertakings of Government of Kerala and ₹0.39 crore from individuals, private firms, private companies etc. The Department stated (June 2016) that the reason for delay in collection of revenue was due to dispute regarding the claims, court stays, appeals and Government stays and that action was being taken to redress the dispute and to vacate the stays.
	Total	2,323.02	742.03	

Ineffective implementation of the system for the realisation of arrears of revenue such as prompt reporting of arrears to Revenue Department and pursuance by the departments concerned for realising the arrears were the main reason for this huge pendency. The arrears of ₹742.03 crore pending for

more than five years in eight departments included those of Excise Department from 1952 onwards. The cases referred to Government for write off (₹15.48 crore) were also not being pursued by the departments/offices concerned.

The Commissioner (Land Revenue) stated (June 2016) that details would be collected from district offices and furnished soon. This has not been received despite reminders issued between August and September 2016. The Chief Town Planner furnished a nil statement. The details called for in May 2016 have not been furnished by Commercial Taxes and Ports Departments (October 2016).

[Audit paragraphs 1.1 to 1.2 contained in the Report of Comptroller & Auditor General of India for the year ended 31st 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) In the light of the audit observations, the Joint Secretary, Legislature Secretariat informed the Committee that, as of March 31, 2016, the total outstanding revenue across ten revenue heads amounted to ₹2,323.02 crore. Furthermore, an additional sum of ₹742.03 crore remains to be collected from eight Departments over the past five years, which includes the long-pending arrears from the Excise Department. When the Committee enquired about the progress of arrear collection, the Additional Excise Commissioner stated that the Revenue Department would undertake further action upon the reporting of the arrears for revenue recovery. He added that Amnesty Schemes had been periodically introduced, leading to the

issuance of orders for one-time settlements with concessions. As a result of that speedy recovery of arrears could be done. An amount of ₹2,73,07,592 had already been collected under the existing Amnesty Scheme and the Revenue Department had to address the remaining cases. The Additional Commissioner explained that delays in those matters often arise when the accused parties initiate legal proceedings, resulting in court-imposed stays that hinder the collection process.

2) The Committee sought clarification on whether the amounts designated for write-off would be included in the overall financial statements. The Additional Excise Commissioner, Excise Department indicated that such inclusion would be contingent upon receiving a report confirming that the defaulting entities possess no registered assets. He added that the said process was progressing, and the reports were being collected from each district. The Committee directed the Department to take measures to collect the arrears as soon as possible. The Committee further enquired whether the amount of ₹2323 crore mentioned in the Audit Report entirely belonged to the Excise Department. The Additional Excise Commissioner confirmed that ₹354 crore was associated with the Excise Department. Additionally, when requested to provide a Departmental breakdown of the ₹2323 crore, the Senior Audit Officer indicated that the amount ₹1536 crore pertained to arrears of the Motor Vehicles Department. When the Committee enquired about the challenges associated with the collection of those arrears, the Joint Secretary, Finance Department informed that following the clearance of arrears under the Amnesty Scheme, discrepancies

arose between the amounts reported by the Accountant General and those actually collected. This situation has contributed to the difficulties encountered in the collection process.

3) The Committee also sought clarification on the reasons for the delays and the measures each Department had implemented to recover the outstanding payments. The Committee emphasized that the officials should be well stucked about the facts and present accurate information during the witness examination. The Committee noted that the Motor Vehicles Department collected taxes in advance for fifteen years at the time of vehicle registration and enquired as to how such a significant amount remained uncollected. The Senior Audit Officer stated that KSRTC alone had accrued an outstanding amount of ₹1000 crore. In response to a further query from the Committee about other Departments facing major arrears, the Senior Audit Officer added that the Forest Department also needed to recover a substantial sum in outstanding payments.

4) The Inspector General of the Registration Department informed the Committee that the Audit Report contained only one observation pertinent to their operations. This remark highlighted a discrepancy in income resulting from increased fair value assessments for the fiscal year 2014-15. The target revenue set for that year was ₹2390.23 Crore, whereas the actual tax collection reached ₹2653.71 crore, reflecting an excess of ₹263.48 Crore over the target.

5) The Deputy Secretary, Legislature Secretariat raised a query regarding the 'Amnesty Scheme 2024,' aimed at facilitating the recovery of outstanding arrears. In response,

the Joint Secretary, Finance Department clarified that the audit reference pertained to cases predating the implementation of the Goods and Services Tax (GST), indicating that officials from the Taxes Department would be best suited to provide detailed insights. The Special Commissioner, Goods and Services Tax Department elaborated on the 'Amnesty 2024' Scheme, stating that it was instituted to expedite the collection of arrears accumulated prior to GST implementation. Preliminary inspections preceding the budget revealed an outstanding ₹14,000 crore linked to approximately 4,500 cases. He stated that the cases with arrears below ₹50,000 had been written off, amounting to a potential recovery of around ₹110 crore that was exempted due to the introduction of the Amnesty Scheme. Additionally, the scheme offered a structured payment facility allowing for the settlement of dues at a fixed percentage, contingent on the amount owed. Specifically, the payment terms were set at 30% for amounts ranging from ₹50,000 to ₹10 lakh, 40-50% for obligations between ₹10 lakh and ₹1 crore, and 70-80% for sums exceeding ₹1 crore. The Special Commissioner emphasized that implementation of the scheme as per the terms could significantly facilitate the clearance of outstanding arrears.

6) In 2023, the GST Department underwent a restructuring that included the establishment of localized systems for arrears collection in each district, although these systems have yet to be fully operational. The Department has now implemented a mechanism to effectively collect outstanding dues by leveraging newly conferred powers under the GST Act.

7) The Committee criticized the Department's position of insisting the tax payers who pay tax on time to remit 100% of

their obligations while at the same time exempting the defaulters from interest and penalties under the current amnesty provisions. The Committee raised concerns regarding the rationale for allowing late taxpayers to settle 30% of their arrears without incurring additional financial penalties. The Special Commissioner, Goods and Services Tax Department elaborated that, contrary to the current GST framework, previously, the tax assessments often relied on the best judgement of tax officials, which was subject to their discretion. Notably, even when an opportunity was provided in 2020 to waive fees by remitting 40% of outstanding amounts, there was a marked reluctance among taxpayers to engage, primarily due to the perception that legal action could reduce their liabilities further. Addressing those complexities would necessitate a comprehensive evaluation of the underlying factors influencing the said matter.

Conclusion/Recommendation

8) The Committee directs the Department to take measures to collect the arrears as soon as possible and report the progress thereof to the Committee urgently.

1.3 Arrears in assessments

The particulars regarding the arrears in assessment such as cases pending at the beginning of the year, cases becoming due for assessment, cases disposed off during the year and number of cases pending for finalisation at the end of the year 2015-16 were called for (May 2016) from the Revenue and Disaster Management (R&DM) Department and the

Commercial Taxes Department. The details furnished by the R&DM Department were as given in Table -1.5.

Table - 1.5
Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2015-16	Total assessments due	Cases disposed off during 2015-16	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Revenue and Disaster Management Department						
Building Tax	16,434	1,44,056	1,60,490	1,48,689	11,801	92.65
Plantation tax	2,818	736	3,554	740	2,815	20.82

During the year, the R&DM Department cleared 14,803 out of 16,434 arrear cases of building tax and 166 out of 2,818 cases of plantation tax. The details of arrears in assessment were not furnished (October 2016) by the Commercial Taxes Department though called for in May 2016 and further in August and September 2016.

[Audit paragraph 1.3 contained in the Report of Comptroller & Auditor General of India for the year ended 31st 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

9) The Deputy Secretary, Legislature Secretariat reported to the Committee that there were 1,581 pending assessments slated for resolution in the fiscal year 2022-23, with 708 cases (approximately 44.78%) still unresolved. The majority of those pending cases were categorized under sales tax. In the agricultural income tax sector, out of 158 total cases, 122 (representing 77.21%) remain outstanding.

10) In response to the Committee's query for further clarification on the audit findings, the Additional Commissioner

(Appeals), Goods and Services Tax (GST) Department revealed that the current backlog stands at 1,344 cases. He assured that the GST Department is implementing rigorous assessment and scrutiny processes, and is actively taking measures to clear those outstanding issues in a timely manner. Furthermore, in response to an additional enquiry from the Committee, he confirmed that an updated report detailing arrears up to the end of the fiscal year 2022-23 had been provided.

Conclusions/Recommendations

11) The Committee directs the Department to submit a report on the progress of disposal of pending assessments to the Committee urgently.

1.4 Evasion of tax detected by the Departments

The details of cases of evasion of tax detected by the Departments were called for by Audit in May 2016 and reminded in August and September 2016. The details as furnished by Transport, Registration and Forest Departments are given in Table - 1.6.

Table - 1.6
Details of evasion of tax detected

Sl. No.	Head of revenue	Cases pending as on 31 March 2015	Cases detected during 2015-16	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty etc. raised		Number of cases pending for realisation as on 31 March 2016
					Number of cases	Amount of demand (₹ in crore)	
1.	0041 - Taxes on vehicles	98	7	105	99	1.23	104
2.	0030-Stamp duty and registration fee	10,17,447	5,326	10,22,773	9,48,159	220.20	10,13,732
3.	0029-Land Revenue	779	10	789	87	0.06	702
4.	0406-Forestry and Wild Life	13	-	13	-	-	13

The number of cases of evasion of tax pending as on 31 March 2015, furnished by the Transport Department was 1,425. The Department stated (September 2016) that these cases included cannot be termed as evasion of tax and furnished a revised statement (September 2016) in which the number of cases of tax evasion as on 31 March 2015 was 98. The reason for pendency of these cases was not furnished by the Department.

Out of 10,22,773 cases of evasion of tax detected by the Registration Department, though the Department could complete assessment and raise demand in 9,48,159 cases, amount was realized only in 9,041 cases. The details such as reason for huge pendency, delay in clearance of the cases, realisation of the demand, at what level they were pending etc., though called for were not furnished by Registration Department (October 2016).

The cases of evasion pending as on the beginning of the year for Land Revenue Department was 779 excluding the figure relating to Thrissur district which was not available with the Department. The Department stated that the details of evasion

called for by Audit (May 2016) were not recorded in that office. The number of cases of evasion detected and settled during the year as furnished by the Department included only that of three districts. The total number of cases of evasion pending was not furnished by the Land Revenue Department.

The Forestry and Wild Life Department, did not take any action during the year on the 13 cases which were pending at the beginning of the year.

The Excise, Power, PWD, State Lotteries, Agriculture, Animal Husbandry and Stationery Departments stated (between June and August 2016) that no case of evasion of tax was detected by them.

The details were not furnished (October 2016) by Commercial Taxes, Printing, and Crop Husbandry Departments and the Directorate of Health Services.

1.5 Pendency of refund cases

The details of refund cases pending at the beginning of the year 2015-16, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2015-16 as reported by the Excise Department are given in Table -1.7.

Table - 1.7
Details of pendency of refund cases

(₹ in crore)

Sl. No.	Particulars	Commercial Taxes		State Excise	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year 2015-16	5,363	190.53	6	0.80
2.	Claim received during the year	5,236	103.21	24	4.37
3.	Refunds made during the year	5,150	120.50	16	3.28
4.	Balance outstanding at the end of the year 2015-16	5,449	173.24	14	1.89

In Commercial Taxes Department, number of refund cases outstanding as at the end of March 2016 was 5,449 of which, 5,448 cases pertain to refund of value added tax. The Commissioner of Commercial Taxes stated (October 2016) that there were some gaps in the system of refund process and to process the refund application within the time limit prescribed, instructions⁶ had been issued to the assessing authorities for compliance.

[Audit paragraphs 1.4 and 1.5 contained in the Report of Comptroller & Auditor General of India for the year ended 31st 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

12) When the Committee enquired about the details regarding the above audit paragraphs, the Additional Commissioner (Appeals), Goods and Services Tax Department indicated that a comprehensive report detailing the current status would be provided to the Committee in due course.

Conclusions/Recommendations

13) The Committee directs to furnish a comprehensive report on the status of the realization of demand in cases pointed out by Audit and the status in respect of refund of cases within two months.

1.6 Analysis of stay granted

An analysis of arrears of revenue which were under various stages of collection revealed that the arrears pending

6

⁶Circular 9/2016 dated 25.7.2016 and Circular 14/2016 dated 20.8.2016.

collection as on 31 March 2016 included collections stayed by various authorities at various stages on some principal heads of revenue as detailed in Table -1.8.

Table - 1.8
Stages of stay granted

(₹ in crore)

Sl. No.	Head of revenue	Total arrear amount	Stage wise details of		Total amount under stay	% of stay to total arrear
			Stay by Court and other judicial authorities	Stay by Government		
1	0041-Taxes on vehicles	1,536.74	0.10	0	0.10	0
2	0406-Forestry and Wild Life	315.73	2.50	73.06	75.56	23.93
3	0039-Excise	199.05	52.39	0	52.39	26.32
4	0030- Stamps and Registration	29.52	5.55	0	5.55	18.80
5	0853-Non-Ferrous Mining and Metallurgical Industries	0.98	0.12	0.40	0.52	53.06
	Total	2,082.02	60.66	73.46	134.12	6.44

An amount of ₹ 134.12 crore is pending under stay, which is 6.44 per cent of the total arrear amount. The Departments need to take effective action to vacate the stay and to realise the amounts. The arrears of revenue pending under stay in respect of Police, Kerala State Audit, Stationery, Town Planning and Labour Departments were nil. The details were not furnished by Commercial Taxes, Land Revenue, Printing and Ports Departments (October 2016) though called for in May, August and September 2016.

[Audit paragraph 1.6 contained in the Report of Comptroller & Auditor General of India for the year ended 31st 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

14) The Additional Commissioner (Appeals), Goods and

Services Tax Department informed that an attempt was made to establish a bench in the High Court exclusively for addressing GST-related cases, but it did not become successful.

15) The Committee noted that the High Court's stay order on the collection of taxes amounting to ₹5,000 crore still remained in effect. The Special Commissioner, Goods and Services Tax Department indicated that steps were underway to compile a list of 100 cases for expedited hearings, treating them as a priority. Additionally, the Amnesty Scheme commenced on August 1, 2024, with the potential to significantly reduce outstanding arrears by the deadline of December 31. He emphasized that there were ongoing initiatives which aimed at the early resolution of those 100 prioritized court cases to facilitate timely disposal.

Conclusion/Recommendation

16) No Comments

1.7 Response of the Government/Departments to Audit

The Principal Accountant General (E&RSA), Kerala, conducts periodical inspection of the Government Departments to test check the transactions and verifies the maintenance of

important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to furnish first reply within four

weeks from the date of receipt of the Inspection Report. Even if final reply to certain paras in Inspection Report could not be furnished within the prescribed time limit, an interim reply may be furnished indicating the action taken to rectify the defects pointed out by Audit. Serious financial irregularities are reported to the heads of the Departments and the Government.

Inspection reports issued upto December 2015 disclosed that 24,662 paragraphs involving ₹ 7,253.02 crore relating to 2,672 IRs were outstanding at the end of June 2016 as mentioned below with the corresponding figures for preceding two years in Table - 1.9.

Table - 1.9
Details of pending Inspection Reports

	June 2014	June 2015	June 2016
Number of IRs pending for settlement	3,027	3,193	2,672
Number of outstanding audit observations	23,324	24,691	24,662
Amount of revenue involved (₹ in crore)	6,018.52	9,146.67	7,253.02

1.7.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2016 and the amounts involved are mentioned in the **Table - 1.10**.

Table - 1.10
Department-wise details of IRs

(₹ in crore)					
Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Commercial Taxes	Taxes on sales, trade, etc.	1,821	20,669	3,880.22
		Taxes on agricultural income	21	52	27.99
2.	Power	Electricity duty	24	82	3,176.25
3.	Revenue	Land Revenue	46	502	46.58
4.	Transport	Taxes on motor vehicles	367	2,229	110.87
5.	Excise	State Excise	12	22	0.20
6.	Stamps and Registration	Stamp duty and registration fees	370	1,075	10.70
7.	Lotteries	Receipts from lotteries	11	31	0.21
Total			2,672	24,662	7,253.02

Audit did not receive even first replies in case of 244 IRs within four weeks from the date of issue of the IRs from seven heads of offices during 2015-16. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs. The large pendency of IRs due to non receipt of replies shows the failure of effective monitoring of clearing the pending Audit observations by the Audit Monitoring Committees at Secretary level and Apex Committees at Chief Secretary level.

The Government needs to have more effective system for ensuring prompt and appropriate response to audit observation within the time frame prescribed in the circular⁷ issued by the Finance Department by improved monitoring and putting in further checks and balances and incentives and disincentives into this mechanism.

1.7.2 Departmental Audit Committee Meetings

The Government set up audit committees to monitor and expedite the progress of settlement of local audit reports and paragraphs in the local audit reports. The details of the audit committee meetings held during the year 2015-16 and the paragraphs settled are mentioned in Table - 1.11.

Table - 1.11
Details of Departmental audit committee meetings

(₹ in lakh)				
Head of revenue	Number of meetings held	Number of audit observations pending as on 31 March 2015	Number of paragraphs settled	Amount involved in settled paragraphs
Taxes on vehicles	5	1,996	391	34.28
Tax on sales, trade etc.	3	20,085	266	639.16
State Excise	1	305	23	0.15
Stamp duty and registration fees	2	761	30	10.14
Land Revenue and Building Tax	1	1,940	75	227.06
Electricity duty	1	82	9	0
Total	13	25,169	794	910.79

An amount of ₹1.06 crore was recovered after discussion in these meetings. The progress of settlement of paragraphs pertaining to the Commercial Taxes Department, Excise Department and Revenue Department was negligible compared to the huge pendency of the local audit reports and paragraphs despite holding departmental audit committee meetings.

[Audit paragraph 1.7.1 and 1.7.2 contained in the Report of Comptroller & Auditor General of India for the year ended 31st 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.

17) During the Committee's query regarding the Departmental Audit Committee Meetings, the Joint Excise Commissioner, Excise Department reported that two audit committee meetings took place in March and October 2022, and no subsequent meetings were held thereafter. The Deputy Secretary, Legislature Secretariat highlighted that 794 out of 25,169 audit paragraphs had only resolved. The Additional Commissioner (Appeals), Goods and Services Tax Department stated that Adalats have not been conducted, and would be held with the cooperation of the Accountant General's Office.

Conclusions/Recommendations

18) The Committee directs the Department to conduct Departmental Audit Committee Meetings at regular intervals to monitor and expedite the progress of settlement of local audit reports and paragraphs in the local audit report.

1.7.3 Non-production of records to Audit for scrutiny

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

During the year 2015-16 files relating to KVAT assessments in which the turnover of the assessee was above ₹ 60 lakh and KGST assessments in which the tax effect was above ₹2 lakh were called for by Audit for scrutiny in Commercial Taxes Department. However, 6,492 tax assessment files relating to 100 offices were not made available to Audit. Of these 2,725 files pertained to 27 special circles and works contract offices, where assessments of major dealers are dealt with as given in Appendix III(I).

Circle/division wise analysis showing the names of head of offices for the years 2011-12 to 2015-16 is given in Appendix III(2).

In R&DM Department, two assessment files in Taluk Office, Thalappilly involving tax effect of ₹ 2.85 crore were not made available to Audit for scrutiny.

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

Non-production of large number of transaction records involving substantial revenue hinders Audit in discharging the constitutional responsibility and comes in the way of assuring the State Government about the quality and risk involved in these transactions involving revenue for the State Government. The possibility of fraud or misappropriation or business malfeasance remaining hidden/surpassed and escaping detection during audit also remains high.

1.7.4 Response of the Departments to the draft paragraphs

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

Forty four draft paragraphs including one performance audit were sent to the Principal Secretaries/Secretaries of the

respective Departments by name between June and October 2016. The Principal Secretaries/ Secretaries of the Departments furnished replies to 25 compliance audit paragraphs. Response of Government to the Performance Audit Report on 'Disaster Management in the State' and to the Compliance Audit Reports have not been received (November 2016).

Partial response of Government on CA on Enforcement under KVAT Act was received.

1.7.5 Follow up on the Audit Reports-summarized position

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government to the Legislature Secretariat with copies to Accountant General and Finance (PAC) Department within two months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. It is worth mentioning that 179 paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Kerala for the year ended 31 March 2011 to 31 March 2015 were placed before the State Legislature Assembly between 06 March 2012 and 24 February 2016. The action taken explanatory notes from the

Departments concerned on 108 paragraphs were received late with an average delay of 2 months to 34 months in respect of each of these Audit Reports. Action taken explanatory notes in respect of 27 paragraphs from three departments (Taxes, Revenue and Disaster Management and Power) had not been received in Audit for the Audit Report of the year ended 31 March 2015 so far (October 2016). It was noticed that six departments did not submit action taken explanatory notes as of October 2016 in respect of 70 paragraphs (62 individual and eight PAs/Review paragraphs) featured in the C&AG's Audit Reports in respect of Audit Reports from the year 2012. For 62 individual transaction audit paragraphs, compliance was not furnished by four Departments. The Departments largely responsible for non-submission of action taken explanatory notes were Taxes, Transport and Revenue and Disaster Management. The PAC discussed 49 paragraphs pertaining to the Audit Reports for the years from 2011 to 2015. PAC recommendations have not been received on these paras (December 2016). ATNs have not been received in respect of 114 recommendations of the PAC from the Departments concerned as mentioned in the Table 1.12.

Table - 1.12

Year	Name of the Department							Total
	Taxes	Transport	Revenue & Disaster Management	Forest & Wildlife	Education	Co-operation	Water Resources	
2008-11	23	2	7	-	1	1	-	34
2011-14	9	10	-	-	-	-	-	19
2014-16	29	11	6	1	1	12	1	61
Total	61	23	13	1	2	13	1	114

The non receipt of ATNs have been brought to the notice of Chief Secretary to the Government in Apex Committee Meeting.

held on 19 July 2016 and through letters issued to the Chairman, Public Accounts Committee, the Chief Secretary to Government and Secretaries of administrative departments.

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

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

The following paragraphs 1.8.1 to 1.8.2 discuss the performance of the Revenue and Disaster Management Department under revenue head 0029-Land Revenue and cases detected in the course of local audit during the last ten years and also the cases included in the Audit Reports for the years 2005-06 to 2014-15.

1.8.1. Position of Inspection Reports

The summarised position of the inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2016 are tabulated below in **Table - 1.13.**

Table - 1.13
Position of Inspection Reports

Sl No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance during the year		
		IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
1	2005-06	205	984	7.61	63	354	1.46	31	327	2.77	237	1011	6.30
2	2006-07	237	1011	6.3	50	309	3.18	29	370	1.84	258	950	7.64
3	2007-08	258	950	7.64	54	359	3.58	27	252	0.42	285	1057	10.81
4	2008-09	285	1057	10.81	49	287	8.47	31	158	0.57	303	1186	18.71
5	2009-10	303	1186	18.71	54	386	17.79	90	393	7.49	267	1179	29.01
6	2010-11	267	1179	29.01	72	425	19.33	25	261	2.88	314	1343	45.46
7	2011-12	314	1343	45.46	55	341	91.57	41	267	409.38	328	1417	136.82
8	2012-13	328	1417	136.82	51	376	46.02	24	178	1.2	355	1615	181.64
9	2013-14	355	1615	181.64	53	369	17.02	33	385	1.16	375	1599	197.50
10	2014-15	375	1599	197.5	44	416	36.54	22	75	19.65	397	1940	214.39

The Government arranges Audit Monitoring Committee and Apex Committee meetings between the Department and office of the Principal Accountant General to settle the old paragraphs. As would be evident from the above table, against 205 outstanding IRs with 984 paragraphs as on start of 2005-06, the number of outstanding IRs increased to 397 with 1,940 paragraphs at the end of 2014-15. This is indicative of the fact that the response to the local audit reports is poor and the steps taken by the Department to clear the outstanding IRs and paragraphs are inadequate.

1.8.2. Recovery in accepted cases

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

Table - 1.14

(₹ in crore)

Sl. No.	Year of Audit Report	Number of paragraphs included	Money value of paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as of 31.03.2015.
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1	2005-06	5	2.80	4	1.53	0.07	0.07
2	2006-07	3	0.20	3	0.20	0.11	0.11
3	2007-08	4	51.31	3	51.23	0.09	0.11
4	2008-09	6	339.98	3	1.70	0.04	0.04
5	2009-10	6	5.23	5	2.90	-	1.19
6	2010-11	6	5.38	4	1.99	-	1.15
7	2011-12	7	1.48	7	1.48	0.50	0.55
8	2012-13	6	1507.70	6	1507.70	0.42	1.03
9	2013-14	2	1.50	2	1.50	0.39	0.84
10	2014-15	4	5.99	4	5.99	1.30	1.30

It is evident from the above table that the progress of recovery in accepted cases was slow throughout the last ten years. The recovery in accepted cases was to be pursued as arrears recoverable from the parties concerned.

[Audit paragraph 1.7.3 to 1.8.2 contained in the Report of Comptroller & Auditor General of India for the year ended 31st 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

19) The Committee accepted the reply furnished by the Department.

Conclusions/Recommendations

20) No Comments

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

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

The details of 12 Performance Audit Reports on the Departments of Commercial Taxes, Registration, Excise, Transport, Power and Revenue and Disaster Management featured in the Reports for the last five years along with recommendations and their status are given in **Appendix III(III)**. The PAs on Commercial Taxes Department covered the areas such as Compounding Schemes, Utilisation of declaration forms in interstate trade, Levy and collection of VAT on evasion prone commodities/areas, Assessment, levy and collection of VAT on transfer of goods involved in the execution of works/supply contract and Effectiveness of KVATIS in Tax administration and System of assessment under KVAT. In tune with the recommendations of Audit, the Department decided for restoration of audit assessment wing, periodic fixation/refixation of floor rates on evasion prone commodities, enabling of online filing of application of compounding in KVATIS, upgradation of e-governance infrastructure and has constituted Economic Intelligence Wing.

[Audit paragraph 1.9 contained in the Report of Comptroller & Auditor General of India for the year ended 31st 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

21) While considering the above audit observation, the Additional Commissioner (Appeals), Goods and Services Tax Department informed that although the Accountant General had found flaws in 30,000 cases, those errors could not be detected in the Department's system. Later, the Finance Department reduced the number of cases to 5,000 and the reason for that had not been identified. The Senior Deputy Accountant General added to the discussion that the data was provided on CD at that time itself and the difference may not be identified due to the inefficiency of the KVATIS software. The Additional Commissioner (Appeals), Goods and Services Tax Department stated that the Government had instructed to find out the cases in which the difference was occurred and all accounts had been checked as part of regular scrutiny. That matter had already been brought to the attention of the Accountant General and another meeting would be conducted, if necessary.

Conclusions/Recommendations

22) No Comments

1.10 Audit planning

The unit offices under various departments were categorised into high, medium and low risk units according to their revenue position, past trends of audit observations, complaints, media reports, non-production of records, information regarding malpractice obtained through RTI and misappropriation. The annual audit plan was prepared on the basis of risk analysis which inter-alia included critical issues in government revenue, tax administration i.e. budget speech,

white paper on finances, reports of the Finance Commission (State and Central), recommendation of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during the past five years etc. During the year 2015-16, there were 823 audit units, of which 461 units were planned and audited, which is 56.01 per cent of the total audit units.

1.11 Results of audit

Position of local audit conducted during the year

Test check of the records of 461 units⁸ of Sales Tax/Value Added Tax, State Excise, Motor Vehicles and other Departmental offices conducted during the year 2015-16 showed under-assessment/short levy/loss of revenue aggregating to ₹4,276.95 crore in 3,408 cases. Deficiencies in the management of finance and inadmissible expenditure from State Disaster Response Fund with expenditure impact of ₹153.63 crore was also noticed in one case. During the course of the year, the Departments concerned accepted under-assessment and other deficiencies of ₹ 3283.52 crore involved in 789 cases which were pointed out in audit during 2015-16. The Departments collected ₹58.67 crore in 1,358 cases during 2015-16, pertaining to the audit findings of previous years.

1.12 Coverage of this Report

The Report contains 27 paragraphs which came to notice in the course of test audit of records during the year 2015-16 as well as those in earlier years involving revenue impact of ₹3,458.41 crore and expenditure impact of ₹153.63 crore.

8

? In the case of remaining 12 units, IRs were issued during the year 2016-17.

Instances relating to the period subsequent to 2015-16 have also been included wherever necessary. The Department/Government have accepted audit observations involving ₹3,206.53 crore out of which ₹35.49 crore had been recovered. These are discussed in succeeding Chapters II to V.

[Audit paragraphs 1.10 to 1.12 contained in the Report of C & AG of India for the year ended 31st March 2016(Revenue Sector)]

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

Excerpts from the discussion of Committee with officials concerned

23) The Committee accepted the reply furnished by the Department.

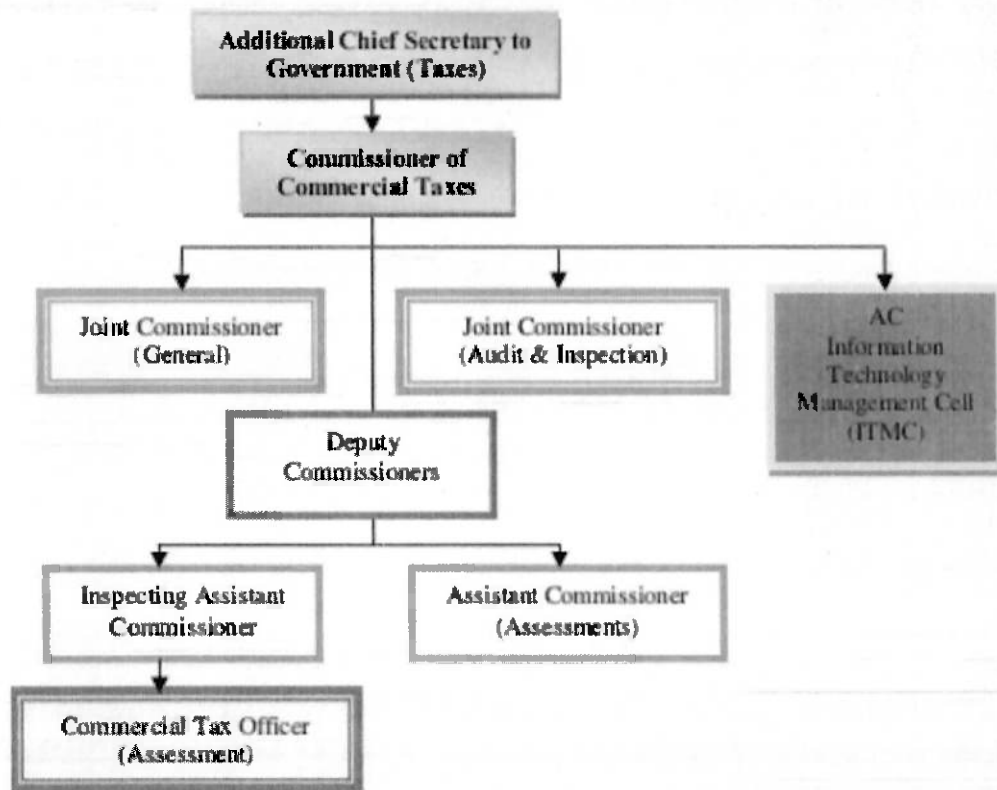
Conclusions/Recommendations

24) No Comments

2.1 Tax administration

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

Organogram of the Department is given below:



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

2.2 Internal audit

The Internal Audit Wing (IAW) in the CTD commenced functioning from 1 June 2009. The wing headed by one DC is assisted by two ACs and five Commercial Tax Officers. During 2015-16, the wing planned audit of 72 units but could audit only 56 units. Potential cases and collection fall cases are compulsorily checked by the wing. Out of an overall outstanding of 5,478 paras, only 306 paras (5.59 per cent) were cleared. This indicated the poor response of the CCT to the observations of the IAW and in enforcing clearance of the

paras by addressing the shortcomings/deficiencies pointed out by the wing. The reason for low clearance of observations made by IAW, though called for (May 2016) was not furnished by the CCT (November 2016).

2.3 Results of audit

Table - 2.1

SL No.	Categories	(₹ in crore)	
		Number of cases	Amount
1	Audit on Assessment, levy and collection of VAT on gold, diamond and platinum	1	2,924.81
2	Audit on Levy, collection and assessment of subcontracts in works contract	1	96.40
3	Short levy of tax in assessments of metal crushing units	1	85.94
4	Short payment of tax due to escape of turnover from assessment	1,163	336.84
5	Short payment of tax due to excess availing of input tax credit/special rebate	213	30.09
6	Short payment of tax due to grant of irregular exemption	206	61.49
7	Short payment of tax due to application of incorrect rate of tax	43	96.94
8	Others	612	267.19
	Total	2,240	3,899.70

Test check of the records relating to KVAT/KGST and CST assessments and connected documents in 171 offices of the CTD conducted during 2015-16 showed under assessment of tax and other irregularities involving ₹ 3,899.70 crore in 2,240 cases which fall under the following categories as given in Table - 2.1.

During the course of the year, the Department accepted under assessment and other deficiencies involving ₹3,040.03 crore in 445 cases which were pointed out by Audit. An amount of ₹20.56 crore was realised in 551 cases during the year 2015-16 of which 48 cases involving ₹58.70 lakh were pointed out during 2015-16 and the rest in earlier years.

In two draft paragraphs involving ₹22.41 lakh, the Department

recovered the entire amount. A few Audit observations involving ₹3,225.43 crore are mentioned in the following paragraphs.

[Audit paragraphs 2.1 to 2.3 contained in the Report of C & AG of India for the year ended 31st March, 2016(Revenue Sector)]

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

Excerpts from the discussion of Committee with officials concerned

25) The Committee accepted the reply furnished by the Government.

Conclusions/Recommendations

26) No Comments

Value Added Tax

2.4 Assessment, levy and collection of VAT on gold, diamond and platinum

2.4.1. Introduction

The commodities under precious metals inter alia include gold bullion, gold coins, gold ornaments, diamonds, diamond studded gold ornaments and platinum. The transactions in the State include purchase, manufacture, sale and mortgage. Gold bullion and coin, platinum and diamond are taxable at one per cent under entry one and four of II Schedule of Kerala Value Added Tax (KVAT) Act, 2003. Ornaments made of gold, platinum and diamond were taxable at the rate of one per cent up to 30 June 2006, at the rate of four per cent up to 31 March 2012 and at the rate of five per cent thereafter. Apart from regular scheme of assessment, a compounding provision was

introduced by Finance Act 2006 with effect from 01 July 2006. Thereafter, minor amendments to the compounding scheme were introduced from time to time. In compounding scheme, the dealer agrees to pay tax at the fixed percentage of tax paid during previous year/years, instead of paying tax at scheduled rates on taxable turnover. A dealer opting for compounding is not entitled to get input tax credit and special rebate.

The tax collection from jewellery including bullion during the years from 2009-10 to 2014-15 is detailed in Table -2.2.

Table -2.2.

(₹ in crore)

Year	Compounded			Non compounded			Total		
	No. of dealers	Collection	Percentage of variation in collection compared to previous year	No. of dealers	Collection	Percentage of variation in collection compared to previous year	No. of dealers	Collection	Percentage of variation in collection compared to previous year
2009-10	2007	112.21	-	3039	50.84	-	5046	163.05	-
2010-11	2218	141.71	26.29	2909	83.69	64.61	5127	225.4	38.24
2011-12	2292	180.51	27.38	2928	121.69	45.41	5220	302.2	34.07
2012-13	2491	242.09	34.11	2875	151.45	24.46	5366	393.54	30.23
2013-14	2668	310.76	28.37	2703	160.77	6.15	5371	471.53	19.81
2014-15	2782	310.4	- 0.12	2610	146.36	-8.96	5392	456.76	- 3.13

2.4.2. Audit objectives and scope of Audit

Audit was conducted to ascertain whether :

- ***the provisions of KVAT Act/CST Act and the Rules***

made there-under governing taxation on gold, diamond and platinum are adequate and are being complied with.

- ***all transactions in gold in the State are subjected to VAT assessment.***

As per Kerala Value Added Tax Information System (KVATIS) there are 5,449 gold dealers in the State. The audit was conducted during the period May 2016 to July 2016 and Audit test checked the assessment records for the years 2013-14 and 2014-15 in respect of 527 gold dealers in 119 assessment circles. The sample was selected by stratified random sampling method using IDEA. Audit collected the details of import of gold from Director General of System and Management, Central Excise and Customs, New Delhi, Income Tax Department (ITD) and cross checked the data with KVATIS.

The records and registers pertaining to taxation of gold maintained in Finance Department, Taxes Department, Law Department and Commissionerate of Commercial Taxes were also test checked. An entry conference was conducted (02 May 2016) with Special Secretary (Taxes) wherein the scope and methodology adopted for audit were discussed. An exit conference was conducted on 6 September 2016 to discuss the findings of audit with Additional Chief Secretary (Taxes).

In its meeting dated 12 July 2012 of the Subject Committee VIII (Economic Affairs) of 13 Kerala Legislative Assembly, the Committee observed that there was wide spread evasion of tax from transaction of gold in the State. Physical verification of the sale, purchase and stock of the gold dealers is a tool to establish evasion of tax. While conducting inspection (2013-14 and 2014-15) on jewelery dealers, the enforcement wing of the department collected ₹ 10.24 crore being tax, security deposit

and registration fee on a turnover escape of ₹ 97.50 crore in 186 cases. Audit had prepared an action plan to conduct a Joint Physical Inspection (JPI) of the premises of jewellers in the State and issued (September 2016) DO letters to the CCT and Additional Chief Secretary (Finance) for the conduct of JPI. JPI could not be conducted due to delayed response of the Department (November, 2016).

2.4.3. Audit findings

The observations made by Audit are given in the following paragraphs.

2.4.3.1 Non levy of purchase tax

As per Section 8(f)(i) of the KVAT Act, 2003 as amended by Finance Act, 2014, any dealer in bullion or ornaments or wares or articles of gold, silver or platinum group metals including diamond may at his option, instead of paying tax on their sale in the State in respect of such goods in accordance with the provisions of Section 6, may pay tax at appropriate rates according to the turnover of the highest tax payable by him as conceded in the return or accounts, or tax paid by him under this Act, whichever is higher, for any year during any of the three consecutive years preceding that to which such option relates. As per Section 2 of Finance Act, 2014, the above provision had retrospective effect from 01 April 2013.

As per the provision contained in 8(f)(i) of the KVAT Act, 2003 the assessee is liable to pay purchase tax for the purchases effected from unregistered dealers from 2013-14 onwards.

A test check of dealers opting for compounded scheme for the period from 2013-14 and 2014-15 in 119 assessment circles in 15

tax districts revealed that the respective assessing authorities did not levy tax under Section 6(2) of KVAT Act, 2003 in respect of 184 dealers in 68 assessment circles in 15 tax districts. Non levy of purchase tax resulted in short levy of ₹2,475.55 crore including interest and penalty as detailed in Table -2.3.

Table -2.3.

(₹ in crore)

Tax District	No of assessment circles	No of dealers	Turnover escaped	Total tax, interest and penalty escaped
Thiruvananthapuram	7	14	975.69	155.92
Kollam	5	16	440.80	70.59
Pathanamthitta	3	6	181.50	29.19
Alappuzha	2	7	111.72	17.82
Kottayam	1	8	3,612.45	578.18
Idukki	4	7	302.35	48.41
Ernakulam	6	14	1,851.89	296.43
Thrissur	7	24	2,631.47	421.10
Palakkad	3	4	609.79	97.63
Malappuram	7	24	1,106.83	177.29
Kozhikode	4	8	1,710.09	273.41
Kannur	10	29	1,029.76	165.12
Kasaragod	3	12	641.25	102.52
Wayanad	3	5	173.23	27.73
Mattancherry	3	6	89.18	14.21
Total	68	184	15,468.00	2,475.55

The top defaulters among the 184 cases mentioned above are given in **Table -2.4.**

Table -2.4.

(₹ in crore)

Sl. No.	Name of office	Year	Name of assessee/ TIN	Turnover under Section 6(2)	Total short collection of tax (5%) including interest (@ 26% for 2013-14 and @ 14% for 2014-15 and penalty (200%))
1	CTO, Special Circle, Thrissur	2013-14	Kalyan Jewellers India Private Limited/ 32080204326	846.13	137.92
		2014-15		786.93	123.55
2	CTO, Special Circle, Kottayam	2013-14	Josco Fashion Jewellers/ 32050207484	755.60	123.16
		2014-15		799.07	125.45
3	CTO, Special Circle II, Ernakulam	2013-14	Bhima Jewels/ 32070373424	555.40	90.53
		2014-15		586.61	92.08
4	CTO, Special Circle, Kottayam	2013-14	Josco Jewellers Private Limited/ 32050212502	530.76	86.51
		2014-15		440.31	69.13

Government accepted (September 2016) the findings of Audit.

Further reply has not been received (November 2016).

Department may analyse amendments brought into in the Statute and levy tax as provided in the amended Statute.

[Audit paragraphs 2.3 to 2.4.3.1 contained in the Report of C & AG of India for the year ended 31st March 2016(Revenue Sector)]

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

Excerpts from the discussion of Committee with officials concerned

27) In response to the Committee's query regarding the audit findings, the Special Commissioner, Goods and Services Taxes Department clarified that the audit observation concerning the non-levy of purchase tax was not sustainable. This issue has since been addressed through amendments made to the Finance Bill. The Committee accepted the Department's explanation .

Conclusions/Recommendations

28) No Comments

2.4.3.2 Irregular reduction of rate of tax with retrospective effect

As per Section 8(f)(i) of KVAT Act as it stood upto 31.3.2014, if a dealer had paid compounded tax for the previous year and his total turnover is rupee one crore and above, the compounded tax payable is 125 per cent of the compounded tax paid/payable for the previous year. Section 8(f)(i) of the Act was amended by Finance Act, 2014 with retrospective effect from 01 April 2013. As per the amendment, if a dealer had paid compounded tax continuously for the last three years/five years and his total turnover is ₹one crore and above, the compounded tax payable is 120 per cent/115 per cent of the compounded tax paid/payable. Dealers filed compounding option for 2013-14 under the rate existed for compounded tax on due date (30 April 2013) as stipulated by KVAT Rules, 2005. On presentation of the budget for 2014-15, the Department issued circular (March 2014) to file fresh compounding option to give advantage of retrospective effect proposed in Budget Speech. As the KVAT Rules prescribe the last date of filing option as 30 April of every year, the Circular issued to file fresh option on a subsequent date was irregular.

On a test check of assessment files in 119 assessment circles, it was revealed that in respect of 81 dealers in 31 assessment circles, in 15 tax districts the compounded tax for 2013-14

paid/agreed to be paid was adjusted which resulted in short collection of ₹61.48 crore as detailed in Table - 2.5.

Table - 2.5

Tax District	No. of assessment circles	No. of dealers	Total amount escaped
Thiruvananthapuram	2	6	4.84
Kollam	2	6	1.22
Pathanamthitta	1	3	0.39
Alappuzha	1	1	0.05
Kottayam	2	5	16.62
Idukki	2	5	1.39
Emakulam	2	5	7.67
Thrissur	3	14	13.91
Palakkad	2	2	1.63
Mulappuram	4	14	3.50
Kozhikode	3	6	4.77
Kannur	2	7	3.61
Kasaragod	1	3	1.61
Wayanad	2	2	0.25
Mattancherry	2	2	0.02
Total	31	81	61.48

The top defaulters among the 81 cases whose turnover for 2012-13 was above one crore are detailed in Table - 2.6.

Table - 2.6.

Sl No.	Name of Office	Name of assessee/ TIN	Short collection	Interest @ 26%	Penalty @ 200 % of short collection	Total
1	CTO, Special Circle, Thrissur	Kalyan Jewellers India Private Limited 32080204326	3.24	0.84	6.47	10.55
2	CTO, Special Circle, Kottayam	Josco Fashion Jewellers 32050207484	2.05	0.53	4.10	6.68
3	CTO, Special Circle II, Ernakulam	Bhima Jewels 32070373424	1.48	0.38	2.96	4.82
4	CTO, Special Circle, Kottayam	Josco Jewellers Private Limited 32050212502	1.40	0.36	2.79	4.55

[Audit paragraph 2.4.3.2 contained in the Report of C & AG of India for the year ended 31st March 2016(Revenue Sector)]

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

Excerpts from the discussion of Committee with officials concerned

29) During the Committee's query regarding the audit paragraph, the Additional Commissioner (Appeals), Goods and Services Taxes Department clarified that, as per established regulations, compounding applications were required to be submitted by April 30th each year. He highlighted that the amendment to Section 8(f) of the KVAT Act, 2014, had retrospective applicability dating back to 2013, from which dealers have reaped benefits. The audit's observation indicated that the corresponding amendments were not reflected in the associated rule. However, he argued that the objection lacked merit, as the cited section underpins the rule, and the rule is intended to outline the procedural aspects of that section. The Committee accepted the Government's response.

Conclusions/Recommendations

30) No Comments

2.4.3.3 Non forfeiture of illegal collection

As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.

As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.

Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to ₹18.04 crore as detailed in Table-2.7.

Table - 2.7

(₹ in crore)

Tax District	No. of assessment circles	No. of dealers	Total amount escaped
Thiruvananthapura	3	4	1.27

m			
Kollam	7	9	0.28
Pathanamthitta	1	1	2.82
Alappuzha	4	4	0.46
Kottayam	3	3	0.02
Idukki	2	2	3.10
Ernakulam	3	4	0.96
Thrissur	8	9	0.81
Palakkad	3	4	1.73
Malappuram	7	14	1.40
Kozhikode	5	13	0.31
Kannur	6	15	0.42
Kazargod	3	5	1.02
Wayanad	3	5	2.57
Mattancherry	5	7	0.87
Total	63	99	18.04

The top defaulters were as given in **Table - 2.8**

Table - 2.8

Sl No.	Name of the Office	Period	Name of assessee/ TIN	Tax collected (₹ in crore)	Interest (₹ in lakh)	Penalty (₹)	Total (₹ in crore)
1	CTO, Special Circle, Thodupuzha	2013-14	Bhima Gold and Gems, Thodupuzha, Private Limited 32061419965	2.46	63.85	5,000	3.09
2	CTO, Pathanamthitta	2013-14	Bhima Gems (Adoor) Private Limited 32030259344	2.24	58.19	5,000	2.82
3	CTO, Vythiri at Kalpetta	2014-15	Riches Jewel Arcade 32140465165	1.71	23.88	5,000	1.95
4	CTO Special Circle, Thiruvananthapuram	2014-15	Bhima Jewellers & Diamonds 32010186328	1.04	14.53	5,000	1.18

Government accepted the audit findings during the exit conference (September 2016).

Department may analyse amendments brought into in the Statute and collect tax as provided in the amended Statute.

[Audit paragraph 2.4.3.3 contained in the Report of C & AG of India for the year ended 31st March 2016(Revenue Sector)]

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

Excerpts from the discussion of Committee with officials concerned

31) To the audit query, the Additional Commissioner (Appeals), Goods and Services Taxes Department informed that the audit objection was sustainable. Of the 99 cases reviewed, the procedural completion is pending only in five instances. Subsequent instructions had been issued to initiate the necessary notices for those specific cases.

32) The Committee accepted the reply furnished by the Department in cases related to Rainbow

Jewellers(32011113565/2013-14), Mangalya Jewellers
 (32011166395/2013-14), Henna Jewellery(32021204038/2013-
 14), M/S. Bhima Gemes (Adoor) Pvt. Ltd, Adoor,
 3230259344/2013-14, M/S. Bhima Gold And Gems Pvt Ltd
 (32061419965/2013-14), Panthallokarani Jewellery -
 32080566644 (2013-14), Swapna Jewellery Private Ltd
 (32081089285/2013-14), Reji Raju (32081243524/2013-14)
 Alikkal Jewellery (32081394868 /2013-14), Angel Jewellers
 (32081436167/2013-14), Akshaya Gold & Diamonds
 International Private Limited, (32090295925/2013-14), Kavitha
 Gold & Diamonds (32091049629/ 2013-14) Firdous Gold
 Chemmad Private Limited (32100631727/2013-14),
 Chinnansons Jewellery (32100763702/2013-14), Erbad
 Jewellery (32100786281/2013-14), Ponnani Gold(P) Limited
 (32100864063/2013-14), Akshaya
 Jewellers(32110729659/2013-14), M/s. Archana Jewellery
 (32110916624/2013-14), M/S. Isha Gold Ornaments
 (32111169074/2013-14), Pallithara Jewellers
 (32120215852/2013-14), Rajadhani Gold (32120468256/2013-
 14), Pallithara Jewellers (32120566784/2013-14), Muscat
 Jewellery (32121006322/2013-14), Navarathna Jewellery
 (32130501884/2013-14), Anupama Jewellery
 (32140457987/2013-14), City Gold (32140591885/2013-14),
 Bhima Jewellers (32140738449/2013-14), Unity Jewel Arcade
 Pvt.Ltd. (32150804376/2013-14), Thomson Jewellery
 (321508392632/2013-14), Ayyappas 916 Gold (32150973846/
 2013-14), M/s Sumangaly Jewellery (3215430462/2013-14),
 M/s KK Anthru Fashion Jewellery (32151430462/13-14), M/s
 Naveen Jewellery (32151443062/2013-14), Anizham Jewellery
 (32081093234/2013-14), M/s. Bhima Gems (Adoor) Pvt. Ltd,

Adoor, (32030259344)/2013-14, Swarna Alappatt Jewellery
 (32080651345/2013-14), Sona Park (32081197094/2013-14),
 Gold Land Private Limited (32081103235/2013-14), Navaratna
 Jewellers (32081182209/2013-14), Gehana Gold Palace
 (32140790392/2013-14), Revathy Fashion Jewellery
 (32010754915/2013-14), Archana Jewellery(32020661992/13-
 14), Vilayil Jewellers (32020998085/13-14), Thankamalika
 Jewellery(32021005825/2013-14), Nazco Gold
 Souk(32021042477/2013-14), Edimannikkal Jewellery
 (32021163415/2013-14), Royal Jewellers(32021420602/2013-
 14),Brothers Jewellery (32040514225/2013-14), Pullokaran
 Jewellery -32080811051 (2013-14), Blossom Gold Collections
 Private Limited (32100210224/ 2013-14), M/s.Kurikkal Gold
 (32100454607/2013-14), A.M.Gold (32100563103/2013-14),
 Manaf.K.P(Prop), Swarna Mahal(32100565871/ 2013-14),
 Kohinoor Jewellery (32100680092/2013-14), Anaswara Gold
 (32100772522/2013-14), Pearl Gold Mahal
 (32100867854/2013-14), Eminent Jewel Arcade Private Limited
 (32101081896/2013-14), Rolex Jewellery (32110991032/2013-
 14), Rubby Jewellery (32120455015/2013-14), M/s.Pure Gold
 (32120687092/2013-14), Prakash Gold (32121008763/ 2013-
 14), Sky Gold Kuthuparamba (32121016233/2013-14),
 Memana Jewellery(32121017987/2013-14), Sky Gold
 (32122208755/2013-14), Maya Uthamkadam, Sona Gold
 (32122212772/2013-14), Atlas Gold Mahal
 (32122295515/2013-14), Arakkal Jewellery
 (32091126772/2014-15), M/s.Ambika Jewellery
 (32120277254/2014-15), Chennattu Jewellery
 (32120421952/2014-15), Anizham Jewellery
 32081093234/2013- 14.

33) The Committee directed to submit the current status of revenue recovery procedures initiated in connection with Krishna Gold (32020810885)/14-15. Regarding the case related to Riches Jewel Arcade (32140465165), 2014-15, CTO, Vythiri, the Additional Commissioner (Appeals), Goods and Services Taxes Department stated that the audit objection was sustainable as it was related to the application of compound tax and notices had been issued. Regarding the case related to M/s Bhima Jewellers and Diamonds (TIN. 32010186328), 2014-15, CTO, Special Circle, Thiruvananthapuram and the Travancore Jewellers (32020907231/ 14-15), the Additional Commissioner (Appeals), Goods and Services Taxes Department informed that as the reply received was incomplete, revised replies had been sought in that regard. In connection with the cases related to Chirian kandath Jewellery- 32080216702 (2014-15) and Blaze Gold Jewells Private Limited- 32081126826 (2014-15), Edakkara Gold Private Limited (32100961173/2014-15), Parampuzhayil Jewellers (32121036077/2014-15), Parco Swarnaniali Gold (32140541248/2014-15) and Bindu Jewellery (32130236272/2014-15), the Committee directed the Department to submit a report on current status at the earliest.

34) While considering the audit objection related to Dubai Gold and Diamonds (32091199075/2014-15), the Committee wanted an explanation regarding the appeal filed in connection with that case. The Additional Commissioner (Appeals), Goods and Services Taxes Department replied that the second appeal filed before the tribunal was pending and the copies of the Assessment order and the Appellate order had already been

furnished.

35) The Committee accepted the reply furnished by the Department regarding the case related to M/s Maliekal Jewellery (32150969594/2014-15) as the dealer had remitted the amount under the Amnesty Scheme.

Conclusions/Recommendations

36) The Committee directs the Department to furnish the present status of revenue recovery proceedings initiated in connection with Krishna Gold (32020810885)/ 14-15.

37) The Committee directs the Department to submit a revised report on cases related to Riches Jewel Arcade (32140465165), 2014-15, M/s Bhima Jewellers and Diamonds (TIN. 32010186328), 2014-15, Travancore Jewellers (32020907231/ 14-15), Chiriankandath Jewellery-32080216702 (2014-15), Blaze Gold Jewells Private Limited - 32081126826 (2014-15), Edakkara Gold Private Limited (32100961173/2014-15), Parampuzhayil Jewellers (32121036077/2014-15), Parco Swarnaniali Gold (32140541248/2014-15) and Bindu Jewellery. 32130236272/2014-15.

38) The Committee directs the Department to furnish a final report regarding the case related to Dubai Gold and Diamonds (32091199075/2014-15).

2.4.3.4 Lack of co-ordination with other departments in collecting data useful for the completion of assessment

The White paper published by the Empowered Committee on State Level Value Added Tax emphasised the need for cross verification of data between various implementing and

taxation authorities so as to check the tax evasion.

Audit found that the Department was not collecting these details from any other Central/State Government agencies and compiling a data bank. Audit found suppression in import purchase reported at Customs and escape of turnover from assessment reported at ITD as detailed below.

- **Suppression of import purchases than that reported to Customs Department.**

Audit collected the data of import of gold, diamond and platinum into the Country by the dealers from the Director General of Systems and Management, Central Excise and Customs, New Delhi and cross checked the import details furnished by the dealers and found that six dealers in four assessment circles had imported gold, diamond and platinum amounting to ₹ 4,191.16 crore against which ₹ 496.69 crore only was conceded. The suppression of import purchase worked out to ₹ 3,694.46 crore and the resultant short levy of tax, interest and penalty worked out to ₹ 126.70 crore as detailed in **Appendix III(IV)**.

The most benefitted assessee was The Dhanlaxmi Bank Limited from whom short levy of tax was ₹ 118.40 crore including interest and penalty for the years 2011- 12 to 2013-14.

- **Short return of turnover than that reported to ITD**

Audit collected the details of scrutiny assessments completed for the year 2013-14 in Circle 1(1) Kozhikode of Income Tax Department (ITD) in respect of four assessees. From the IT assessment records it was observed that the respective assessees offered additional income to the ITD consequent to a survey conducted by the ITD. The sales turnover pertaining to

the income so offered was not reckoned for assessment by the respective assessing authorities. The short payment of tax in this regard worked out to ₹ 28.93 crore including interest and penalty as detailed in **Appendix III (V)**.

The most benefitted assessee was The Appollo Gold Pvt Limited, Malappuram from whom short levy of tax was ₹ 13.57 crore including interest and penalty during the years 2012-13 to 2014-15. Government accepted (September 2016) the audit findings during exit conference and expressed their difficulty in getting information from other Central Government agencies. Department may evolve a system to cross verify the details from other taxation departments to strengthen the assessment.

[Audit paragraph 2.4.3.4 contained in the Report of C & AG of India for the year ended 31st March 2016 (Revenue Sector)]

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

Excerpts from the discussion of Committee with officials concerned

39) To the audit Query regarding the Malabar Gold Ornaments Makers (P) Ltd, (32110234942), 2014-15, CTO, Special Circle-I, Kozhikode, the Additional Commissioner (Appeals), Goods and Services Taxes Department informed that a case in connection that case was pending before the Honorable High Court. The Committee accepted the reply furnished in connection with the audit observation regarding the Dhanalaxmi Bank Ltd. (32080208466), 2011-12 to 2013-14, CTO, Special Circle, Thrissur.

40) To the audit query in connection with M/s. South Indian

Bank Ltd (32080230731), 2011-12 & 2012-13, CTO, Special Circle, Thrissur and the Federal Bank Ltd (32070233542) 2011-12 to 2013-14, CTO, Special Circle-I, Ernakulam, the Additional Commissioner (Appeals), Goods and Services Taxes Department informed that In the case of banks, the Customs Department had collected import data at the all-India level. While considering the figures related to Kerala, there was no purchase suppression. The Committee accepted the reply furnished by the Department.

41) While considering the audit objection related to Chemmannur Gold Refinery (32071804075) 2014-15 CTO, Fourth Circle, Ernakulam, the Committee directed the Department to submit a report on the current status at the earliest. In response to the audit query concerning Aiswarya Jewell Crafts (32080626854), for the financial year 2014-15, the Additional Commissioner (Appeals), Goods and Services Tax Department indicated that the discrepancy in amounts stemmed from a duplication issue between the warehousing bill of exchange and the import bill of exchange. A thorough review of the account revealed that the case lacked sustainability.

42) The Senior Audit Officer highlighted that the response indicated the discrepancy was attributable to the ex-bonded entry bill. However, it was also mentioned that the bonded material was released within the same month, and the response did not clarify whether the associated amount was later subject to taxation. In response, the Additional Commissioner (Appeals), Goods and Services Taxes Department clarified that the entry was solely for stock movement purposes and did not incur any tax liability at that

stage.

43) The Senior Audit Officer further stated that the response failed to mention that the discrepancy in amount was due to duplication of entries. The Special Commissioner Goods and Services Taxes Department added that each bill of entry filed in the customs database is recorded separately, with no tax liability incurred when the material transferred into the warehouse. However, tax liability arises upon the material's exit from the warehouse. The Committee directed the Department to submit a detailed report regarding the current status.

44) Regarding the cases related to the Short return of turnover than that reported to ITD, the Committee directed the Department to submit a detailed report on the current status of the cases filed in connection with Apollo Gold, Perambra (32111368986), 2012-13 to 2014-15 CTO, Special Circle-I, Kozhikode, Apollo Gold Pvt. Ltd (32100558434), 2012-13, 2013-14 & 2014-15 CTO, Special Circle, Malappuram and Apollo Gold Pattambi Ltd (32091134016), 2012-13 CTO, Pattambi, Palakkad to the Committee at the earliest.

45) In relation to the Apollo Gold (32110800309), covering the period from 2012-13 to 2014-15 under the Chief Tax Officer, Third Circle, Kozhikode, the Additional Commissioner (Appeals), Goods and Services Tax Department provided an update regarding the findings from the audit conducted for the fiscal year 2012-13. A demand assessment of ₹19 lakh had been collected. Consequently, revenue recovery proceedings were initiated for the outstanding balance. He further stated that the Hon'ble High Court had issued a stay on all further

actions concerning the objections arising from the fiscal year 2013-14.

46) The Committee directed the Department to submit a report on the current status of revenue recovery proceedings and to update on the ongoing cases before the Hon'ble High Court pertaining to the years 2013-14 and 2014-15 at the earliest.

Conclusions/Recommendations

47) The Committee directs the Department to submit the current status of case pending before the Honorable High Court in connection with Malabar Gold Ornaments Makers (P) Ltd, (32110234942), 2014-15, CTO, Special Circle-I, Kozhikode.

48) The Committee directs the Department to submit the current status of action taken on case related to Chemmannur Gold Refinery (32071804075) 2014-15 CTO, Fourth Circle, Ernakulam to the Committee within two months.

49) The Committee directs the Department to submit a detailed report in connection with the action taken on Aiswarya Jewell Crafts (32080626854), for the financial year 2014-15.

50) The Committee directs the Department to submit a detailed report on the current status of the cases filed in connection with Apollo Gold, Perambra (32111368986), 2012-13 to 2014-15 CTO, Special Circle-I, Kozhikode, Apollo Gold Pvt. Ltd (32100558434), 2012-13, 2013-14 & 2014-15 CTO, Special Circle, Malappuram and Apollo Gold Pattambi Ltd (32091134016), 2012-13 CTO, Pattambi, Palakkad to the Committee within two

months.

51) The Committee directs the Department to submit the current status of revenue recovery proceedings initiated in connection with Apollo Gold, (32110800309), 2012-13, CTO, Third Circle, Kozhikode. The Committee also urges to submit the current status of cases filed in connection with Apollo Gold, (32110800309), 2013-14 and 2014-15, CTO, Third Circle, Kozhikode.

2.4.3.5 Other issues

- **Irregular compounding**

As per Section 8(f)(i) of KVAT Act, any dealer in bullion or ornaments or wares or articles of gold, silver or platinum group metals including diamond may at his option, instead of paying tax on their sale in the State in respect of such goods in accordance with the provisions of Section 6, may pay tax at various tax slabs according to their turnover during the previous year. As per KVAT Act, turnover includes turnover of sale and purchase from unregistered dealers. On a test check of 327 gold dealers, who opted to pay tax under Section 8(f) (i) of the Act, Audit observed that while fixing the compounded rate of tax, the purchases effected from unregistered dealers were omitted to be included in the turnover. This omission resulted in a reduction of stage in the compounded tax slab in four cases. Short levy of compounded tax in this regard worked out to ₹ 32.96 lakh as shown in **Appendix III(VI)**.

The most benefitted assessee was Narikalathil Prince Jewellery, Vatakara from whom total short levy of tax for 2012-13 to 2014-15 was ₹ 14.83 lakh including interest and penalty. Government accepted (September 2016) the findings during

exit conference.

- **Excess availing of special rebate**

As per Section 6(2) of the KVAT Act, every person who purchases taxable goods from a person other than registered dealer shall pay tax on the purchase turnover of goods at the rate specified under Section 6(1). As per fourth proviso below Section 12(1), the goods in respect of which tax under Section 6(2) has been paid are used in the manufacture of taxable goods then the special rebate under this section shall not exceed the output tax payable in respect of such goods or goods manufactured out of such goods. The rate of tax of old gold jewellery is five per cent and that of bullion is one percent.

On a test check of 200 dealers in the State, it was observed that four dealers claimed excess special rebate in respect of old gold purchased from unregistered dealers and converted and sold it as bullion. Excess availing of special rebate resulted in short payment of tax of ₹ 132.89 crore as shown in **Appendix III(VII).**

The most benefited dealer was Manappuram Jewellers, Thrissur from whom short levy of tax for the years 2013-14 and 2014-15 amounted to ₹ 103.66 crore including interest and penalty.

Government accepted during exit conference (September 2016) the audit findings.

- **Non-reversal of IPT/special rebate**

Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable

under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.

Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of ₹ 80.89 crore as detailed in **Appendix III(VIII)**.

The most benefitted dealers are as detailed in **Table - 2.9**.

Table - 2.9

(₹ in lakh)

Sl. No.	Name of assessee/ TIN	Name of office	Reverse tax	Interest (2013-14 (@ 26%) (2014-15 (@ 14%))	Penalty (@ 200%)	Short levy of tax including interest and penalty
1	Riches Jewel Arcade Limited/ 32140465165/2014-15	CTO Vythiri at Kulpetta	603.14	84.44	1,206.29	1,893.87
2	Bhima Gold and Jewels, Thodupuzha 32061419965/2013-14	CTO. Special Circle, Thodupuzha	336.92	87.60	673.85	1,098.37
3	Bhima Gems (Adoor) Pvt Ltd 32030259344/13-14	CTO. Puthanamthitta	262.24	68.18	524.48	854.91

Government accepted during exit conference (September 2016) the audit findings.

2.4.4 Conclusion

The Department omitted to levy purchase tax on dealers opted for compounding which had a potential tax recovery of ₹ 2,475.55 crore. The Department acted in contravention to the statute in issuing Circular to give retrospective effect in reduction of rate of tax in compounding scheme which lead to

loss of revenue to Government. The Department failed to evolve a system to cross verify the details of cases from other taxation departments which had a potential tax recovery of ₹ 155.63 crore.

[Audit paragraph 2.4.3.5 and 2.4.4 contained in the Report of C & AG of India for the year ended 31st March, 2016(Revenue Sector)]

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

Excerpts from the discussion of Committee with officials concerned

52) Regarding the case related to Naikkalathil Prince Jewellery (32111206222), 2011-12 to 2014-15, CTO, Vadakara, the Additional Commissioner (Appeals), Goods and Services Tax Department informed that the dealer had paid the amount under the Amnesty Scheme. The Committee accepted the reply furnished by the Department.

53) In relation to the audit query concerning M/s VINS Jewellery (32061224204) for the assessment years 2010-11 to 2013-14, the Additional Commissioner (Appeals), Goods and Services Tax Department indicated that although the assessment was concluded and deemed sustainable, the Appellate Authority ultimately rejected it. The Commissioner stated that further details pertaining to that case would be made available.

54) The Committee accepted the reply furnished by the Department related to the Gold Heart (32080743101), 2011-12 to 2014-15, CTO, III Circle, Thrissur as the dealer had remitted the amount under the Amnesty Scheme.

55) When the Committee enquired about the details

regarding the Aruna Jewellery (32111166982), 2013-14 & 2014-15, CTO, Quilandy, the Additional Commissioner (Appeals), Goods and Services Tax Department submitted that on verification, the said case was found non sustainable. The Committee accepted the reply furnished by the Department.

56) While considering the case related to Muthoot Fincorp Limited (32010198265), 2013-14, CTO, Special Circle, Thiruvananthapuram, the Additional Commissioner, GST Department reported that a thorough review revealed that the gold collateralized by pledges was subsequently liquidated through auction. As a result, the audit objection raised was deemed unwarranted. The Committee accepted the Government's explanation. The Committee accepted the reply furnished by the Department regarding the case related to M/s. Alappatt Jewellers (32070379904), 2014-15, Ernakulam as the dealer had remitted the amount under the Amnesty Scheme and the Committee also accepted the reply furnished by the Government in connection with M/s. K. P. Varghese & Sons, (32070303674), 2011-12, 2012-13 & 2014-15, CTO, Third Circle, Ernakulam.

57) While considering the audit objection regarding the Manappuram Jewellers (32081104372), 2013-14, CTO, Special Circle, Thrissur, 2013-14 and 2014-15, the Additional Commissioner (Appeals), Goods and Services Taxes Department informed that the case related to that was pending before the Honorable High Court.

58) To the audit query regarding the cases related to non reversal of IPT/special rebate, the Additional Commissioner (Appeals), Goods and Services Tax Department informed that the audit objection was not sustainable and actions had been

taken for the reversal of ITC.

59) The Additional Commissioner (Appeals), Goods and Services Taxes Department further stated that no further action was required on 18 cases as the dealers had already paid the amount. The Committee accepted the reply furnished by the Department.

60) While considering the case related to Bhima Gems (Adoor) Pvt Ltd (32030259344), 2013-14, CTO, Pathanamthitta, the Additional Commissioner (Appeals), Goods and Services Taxes Department informed that the case related to that the case was pending before the Honorable High Court.

61) In Connection with the Sky Jewellery (32040237025), 2013-14, CTO, Special Circle, Alappuzha, the Additional Commissioner (Appeals), Goods and Services Taxes Department submitted that the said case was not sustainable and the Committee accepted the reply furnished by the Department.

62) Regarding the audit observation related to M/s. Bhima Gold and Gems Pvt Ltd (32061419965), 2013-14, CTO, Special Circle, Thodupuzha, the Additional Commissioner (Appeals), Goods and Services Taxes Department indicated that despite a request for a comprehensive response on the matter, it has not yet been provided. He assured that the report in that regard would be submitted to the committee promptly upon its receipt.

63) In connection with Alapatt Fashion Jewellery, (32070364795), 2013-14, CTO, Special Circle II, Ernakulam, the Additional Commissioner (Appeals), Goods and Services Taxes Department informed that the inspection conducted on that case revealed that there was no clause like 11(4) under

section 12 as stated in audit paragraph. The Committee accepted the reply furnished by the Department.

64) Regarding the case related to Ponnani Gold (P) Ltd. (32100864063), 2013-14, CTO, Ponnani, the Additional Commissioner (Appeals), Goods and Services Taxes Department submitted that a notice had already been issued to the dealer and instructions for the follow up actions had also been given to the concerned officials. The Committee directed to submit the present status of the case.

65) The Committee accepted the reply furnished by the Government on audit observations related to the Gitanjali Life Style Ltd. (32110294217), 2013-14, CTO, III Circle, Kozhikode and Akshaya Jewellers (32110729659), 2013-14, CTO, II Circle, Kozhikode.

66) The Additional Commissioner (Appeals), Goods and Services Tax Department informed the Committee that a notice had been issued to the dealer in August regarding the objections related to Rajadhani Gold (32120468256), 2013-14, CTO, Taliparamba and instructions necessary follow up actions had also been given.

67) The Committee accepted the reply furnished by the Department regarding the audit objections related to the Krishna Gold (32120519488), 2013-14, CTO, I Circle, Kannur.

68) While considering the case related to the Pallithara Jewellers (32120566784), 2013-14, CTO, I Circle, Kannur, the Additional Commissioner (Appeals), Goods and Services Taxes Department informed the Committee that the case related to it was pending before the Honorable High Court.

69) The Committee accepted the reply furnished by the Department regarding the Ranjees Gold Palace

(32130605384), 2013-14, CTO, Hosdurg.

70) Regarding the audit objection related to Minar Gold Pvt. Ltd (32130646931), 2013-14, CTO, Hosdurg, the Additional Commissioner (Appeals), Goods and Services Taxes Department informed the Committee that revenue recovery proceedings were progressing in that case.

71) In connection with the audit objection related to M/s. Bhima Jewellers, (32140738449), 2013-14, CTO, Wayanad, the Committee directed the Department to submit a detailed report regarding the revenue recovery procedures. The Committee also directed to submit a detailed report on the current status of the cases related to M/s. Bhima Jewellers Diamonds (32010186328), 2014-15, CTO, Special Circle, Thiruvananthapuram & M/s. Bhima Silver Palace (32070321538), 2014-15, CTO, Special Circle II, Ernakulam at the earliest.

72) Regarding the case related to Chiriyankandath Jewellery (32080216702), 2014-15, CTO, Special Circle, Thrissur, the Additional Commissioner (Appeals), Goods and Services Taxes Department informed the Committee that although the case was sustainable its applicability is limited to a different assessment year. Consequently, appropriate actions may be undertaken based on that clarification.

73) Regarding the case related to Parampuzhayil Jewellers (32121036077), 2014-15, CTO, Special Circle, Kannur, the Additional Commissioner (Appeals), Goods and Services Tax Department stated that the case filed in connection with the said matter was pending before the Honorable High Court.

74) Regarding the Riches Jewel Arcade (32140465165), 2014-15, CTO, Vythiri, Kalpetta, the Additional Commissioner

(Appeals), Goods and Services Taxes Department informed the Committee that a notice had been issued to the dealer.

75) When the Committee enquired about the audit objection regarding Gehana Gold Palace (32140790392), 2009-10, CTO, Sulthanbathery, the Additional Commissioner (Appeals), Goods and Services Taxes Department reported that the case was deemed non-sustainable upon inspection. The Deputy Secretary, Legislature Secretariat highlighted that the assessment order was annulled due to the issuance of a notice that occurred on January 20, 2016, exceeding the statutory limitation period. In response to the Committee's query to explain the lapse behind this error, the Special Commissioner of the Goods and Services Taxes Department clarified that the limitation period, defined as five years, concluded in 2015, which rendered the audit observation in 2016 invalid. The Committee expressed concern over the lack of timely checks on such details and instructed the Department to provide a comprehensive explanation regarding the significant delay in the issuance of the notice at the earliest.

Conclusion/Recommendation

76) The Committee directs the Department to submit a revised report regarding the action taken on the objections pointed out by the audit about M/s VINS Jewellery, 32061224204 for the assessment years 2010-11 to 2013-14.

77) The Committee urges the Department to submit the present status of case pending before the Hon'ble High Court of Kerala in connection with Manappuram Jewellers (32081104372), 2013-14, CTO, Special Circle, Thrissur, Gehana Gold Palace (32140790392), 2009-10,

CTO, Sulthanbathery 2013-14 and 2014-15.

78) The Committee urges the Department to submit the present status of case pending before the Hon'ble High Court of Kerala in connection with Bhima Gems (Adoor) Pvt Ltd (32030259344), 2013-14, CTO, Pathanamthitta, Parampuzhayil Jewellers (32121036077), 2014-15, CTO, Special Circle, Kannur.

79) The Committee directs the Department to submit a comprehensive report regarding the action taken on M/s. Bhima Gold and Gems Pvt Ltd (32061419965), 2013-14, CTO, Special Circle, Thodupuzha, Ponnani Gold (P) Ltd. (32100864063), 2013-14, CTO, Ponnani, Rajadhani Gold (32120468256), 2013-14, CTO, Taliparamba.

80) The Committee urges the Department to submit the present status of case pending before the Hon'ble High Court of Kerala in connection with Pallithara Jewellers (32120566784), 2013-14, CTO, I Circle, Kannur.

81) The Committee directs the Department to submit the present status of the revenue recovery proceedings initiated in connection with Minar Gold Pvt. Ltd (32130646931), 2013-14, CTO, Hosdurg and M/s. Bhima Jewellers, (32140738449), 2013-14, CTO, Wayanad.

82) The Committee urges the Department to submit the present status of case pending before the Hon'ble High Court of Kerala in connection with M/s. Bhima Jewellers Diamonds (32010186328), 2014-15, CTO, Special Circle, Thiruvananthapuram.

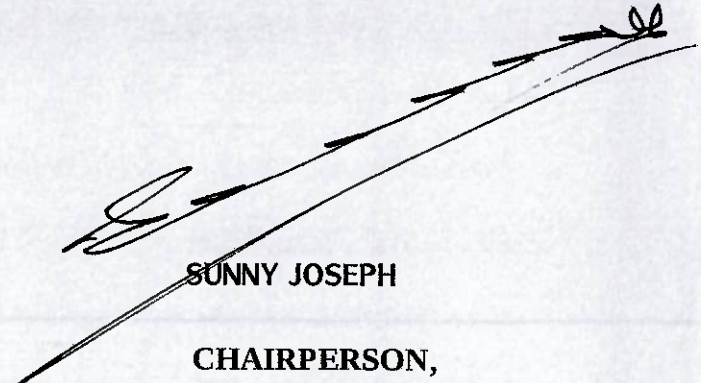
83) The Committee directs to submit the collection

particulars in respect of M/s. Bhima Silver Palace (32070321538), 2014-15, CTO, Special Circle II, Ernakulam.

84) The Committee directs the Department to submit a revised report regarding the action taken on the objections pointed out by the audit about Chiriyankandath Jewellery (32080216702), 2014-15, CTO, Special Circle, Thrissur, and Riches Jewel Arcade (32140465165), 2014-15, CTO, Vythiri, Kalpetta

85) The Committee notices that the assessment order in connection with the case related to Gehana Gold Palace (32140790392), 2009-10, CTO, Sulthan bathery was annulled due to the issuance of a notice that occurred on January 20, 2016, exceeding the statutory time limit and expresses concern over the lack of timely checks on such details and, therefore, instructs the Department to submit an explanation regarding the inordinate delay in the issuance of the notice at the earliest.

Thiruvananthapuram,
28th January, 2026.



SUNNY JOSEPH
CHAIRPERSON,
COMMITTEE ON PUBLIC ACCOUNTS.

APPENDIX I
SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

Sl. No	Para No.	Department Concerned	Conclusion/Recommendation
(1)	(2)	(3)	(4)
1	8	Taxes	The Committee directs the Department to take measures to collect the arrears as soon as possible and report the progress thereof to the Committee urgently.
2	11	Taxes	The Committee directs the Department to submit a report on the progress of disposal of pending assessments to the Committee urgently.
3	13	Taxes	The Committee directs to furnish a comprehensive report on the status of the realization of demand in cases pointed out by Audit and the status in respect of refund of cases within two months.
4	18	Taxes	The Committee directs the Department to conduct Departmental Audit Committee Meetings at regular intervals to monitor and expedite the progress of settlement of local audit reports and paragraphs in the local audit report.
5	36	Taxes	The Committee directs the Department to furnish the present status of revenue recovery proceedings initiated in connection with Krishna Gold

			(32020810885)/ 14-15.
6	37	Taxes	The Committee directs the Department to submit a revised report on cases related to Riches Jewel Arcade (32140465165), 2014-15, M/s Bhima Jewellers and Diamonds (TIN. 32010186328), 2014-15, Travancore Jewellers (32020907231/ 14-15), Chiriankandath Jewellery-32080216702 (2014-15), Blaze Gold Jewells Private Limited - 32081126826 (2014-15), Edakkara Gold Private Limited (32100961173/2014-15), Parampuzhayil Jewellers (32121036077/2014-15), Parco Swarnaniali Gold (32140541248/2014-15) and Bindu Jewellery. 32130236272/2014-15.
	38	Taxes	The Committee directs the Department to furnish a final report regarding the case related to Dubai Gold and Diamonds (32091199075/2014-15).
	47	Taxes	The Committee directs the Department to submit the current status of case pending before the Honorable High Court in connection with Malabar Gold Ornaments Makers (P) Ltd, (32110234942), 2014-15, CTO, Special Circle-I, Kozhikode.
	48	Taxes	The Committee directs the Department to submit the current status of action taken on case related to Chemmannur Gold Refinery (32071804075) 2014-15 CTO, Fourth Circle, Ernakulam to the Committee within two months.
	49	Taxes	The Committee directs the Department to submit a detailed report in connection with the action taken on

			Aiswarya Jewell Crafts (32080626854), for the financial year 2014-15.
	50	Taxes	The Committee directs the Department to submit a detailed report on the current status of the cases filed in connection with Apollo Gold, Perambra (32111368986), 2012-13 to 2014-15 CTO, Special Circle-I, Kozhikode, Apollo Gold Pvt. Ltd (32100558434), 2012-13, 2013-14 & 2014-15 CTO, Special Circle, Malappuram and Apollo Gold Pattambi Ltd (32091134016), 2012-13 CTO, Pattambi, Palakkad to the Committee within two months.
	51	Taxes	The Committee directs the Department to submit the current status of revenue recovery proceedings initiated in connection with Apollo Gold, (32110800309), 2012-13, CTO, Third Circle, Kozhikode. The Committee also urges to submit the current status of cases filed in connection with Apollo Gold, (32110800309), 2013-14 and 2014-15, CTO, Third Circle, Kozhikode.
	76	Taxes	The Committee directs the Department to submit a revised report regarding the action taken on the objections pointed out by the audit about M/s VINS Jewellery, 32061224204 for the assessment years 2010-11 to 2013-14.
	77	Taxes	The Committee urges the Department to submit the present status of case pending before the Hon'ble High Court of Kerala in connection with Manappuram Jewellers (32081104372), 2013-14,

			CTO, Special Circle, Thrissur, Gehana Gold Palace (32140790392), 2009-10, CTO, Sulthanbathery 2013-14 and 2014-15.
	78	Taxes	The Committee urges the Department to submit the present status of case pending before the Hon'ble High Court of Kerala in connection with Bhima Gems (Adoor) Pvt Ltd (32030259344), 2013-14, CTO, Pathanamthitta, Parampuzhayil Jewellers (32121036077), 2014-15, CTO, Special Circle, Kannur.
	79	Taxes	The Committee directs the Department to submit a comprehensive report regarding the action taken on M/s. Bhima Gold and Gems Pvt Ltd (32061419965), 2013-14, CTO, Special Circle, Thodupuzha, Ponnani Gold (P) Ltd. (32100864063), 2013-14, CTO, Ponnani, Rajadhani Gold (32120468256), 2013-14, CTO, Taliparamba.
	80	Taxes	The Committee urges the Department to submit the present status of case pending before the Hon'ble High Court of Kerala in connection with Pallithara Jewellers (32120566784), 2013-14, CTO, I Circle, Kannur.
	81	Taxes	The Committee directs the Department to submit the present status of the revenue recovery proceedings initiated in connection with Minar Gold Pvt. Ltd (32130646931), 2013-14, CTO, Hosdurg and M/s. Bhima Jewellers, (32140738449), 2013-14, CTO,

			Wayanad.
	82	Taxes	The Committee urges the Department to submit the present status of case pending before the Hon'ble High Court of Kerala in connection with M/s. Bhima Jewellers Diamonds (32010186328), 2014-15, CTO, Special Circle, Thiruvananthapuram.
	83	Taxes	The Committee directs to submit the collection particulars in respect of M/s. Bhima Silver Palace (32070321538), 2014-15, CTO, Special Circle II, Ernakulam.
	84	Taxes	The Committee directs the Department to submit a revised report regarding the action taken on the objections pointed out by the audit about Chiriyankandath Jewellery (32080216702), 2014-15, CTO, Special Circle, Thrissur, and Riches Jewel Arcade (32140465165), 2014-15, CTO, Vythiri, Kalpetta
	85	Taxes	The Committee notices that the assessment order in connection with the case related to Gehana Gold Palace (32140790392), 2009-10, CTO, Sulthan bathery was annulled due to the issuance of a notice that occurred on January 20, 2016, exceeding the statutory time limit and expresses concern over the lack of timely checks on such details and, therefore, instructs the Department to submit an explanation regarding the inordinate delay in the issuance of the notice at the earliest.

APPENDIX II
Notes Furnished by Government

REMEDIAL
MEASURES
TAKEN REPORT
ON
C&AG 2016

CHAPTER I

CHAPTER I

1.1 Trend of revenue receipts

Para No.	Gist of the case	Remarks
1.1.1	<u>Trend of revenue receipts</u> During the year 2015-16, the revenue raised by State Government (Rs.47,420.64 crore) was 69 per cent of the total revenue receipts. The balance 31 per cent of the receipts during 2015-16 was from the Government of India.	This para indicates the trend of revenue receipts in general and hence no remarks.

1.1.2 Details of the Tax Revenue raised

Para No.	Gist of the Audit Para	Remarks
1.1.2	<p><u>Details of the Tax Revenue raised</u></p> <p>Taxes on sales, trade etc.: The Department stated that the budget estimates are prepared considering the last year's collection by adding reasonable growth percentage to it. During the year, the decrease in actual receipts when compared to budget estimates was due to the fall in collection from oil companies and certain commodities like motor vehicles, rubber, iron & steel, bar hotels, chicken and timber.</p> <p>Audit found that the following reasons also attributed to the decrease in receipts when compared to estimates.</p> <p>(i) Failure of CTD to comply with the provisions of statute for taxation of gold, diamond and platinum.</p> <p>(ii) Laxity of enforcement and assessing officers in complying with the Act/Rules to identify, detect and to take remedial action against evasion of tax.</p> <p>(iii) Failure of the assessing officers to ensure that the turnover relating to exemption availed by the principal contractors were subjected to tax at the hands of the sub contractors.</p> <p>Taxes on agricultural income: The steep fall in price of rubber has affected collection severely and rubber was exempted from tax also.</p>	<p>The department has taken strategic steps to boost revenue by targeting potential areas and prioritising key cases, particularly in the gold, works contract sector etc. Circular instructions were issued from headquarters to provide guidelines, aiming to streamline revenue processes and achieve the estimated optimal outcomes.</p>

1.1.3 Details of Non-Tax Revenue raised

Para No.	Gist of the Audit Para	Remarks
1.1.3	The details of non-tax revenue raised during the period 2011-12 to 2015-16.	No remarks

1.2 Analysis of arrears of revenue

Para No.	Gist of the Audit Para	Remarks
1.2	<p><u>Analysis of arrears of revenue</u></p> <p>The arrears of revenue as on 31st March 2016 on some principal heads of revenue amounted to Rs.2,323.02 crore of which Rs.742.03 crore was outstanding for more than 5 years.</p>	<p>The GST Act has been introduced w.e.f. 01.07.2017. Earnest efforts were taken by the Department for collecting the pending arrears under, KVAT Act, CST Act, KGST Act, LT Act and AIT Act by way of revenue recovery actions, speedy disposal of appeals, vacation of stay and redressal of disputes before various authorities. Also, various amnesty schemes introduced by the Government of Kerala helped in the speedy recovery of arrears.</p> <p>In the restructured setup of the Department, officers in the cadre of Deputy Commissioners / Assistant Commissioners are appointed as dedicated arrear recovery officers assisted by Assistant State Tax Officers. These officers are exclusively appointed for recovery of arrears under RR. Hence a better result is expected.</p> <p>In order to dispose of tax arrears under pre-GST tax regimes, the Amnesty scheme 2024, came into effect on August 1.</p> <p>Arrears under the Kerala Value Added Tax Act, Kerala Agricultural Income Tax Act, Kerala General Sales Tax Act, Kerala Tax on Luxuries Act, and Kerala Surcharge on Taxes Act will be considered for the scheme.</p> <p>The position of arrears of revenue pending collection as on 31st March 2023 is as furnished below:</p>

BREAK UP OF ARREARS PENDING COLLECTION AS ON 31 MARCH 2023 SHOWING THE AMOUNTS INVOLVED IN EACH STAGE OF ACTION IN STATE GOODS AND SERVICE TAXES
DEPARTMENT Rs Lakhs (Pre-GST Arrear)

Stage of action	Up to 2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	Total
a. Demand covered by Revenue Recovery certificates	273883.87	82534.63	97659.65	76016.53	58417.7	53320.17	48534.13	690366.68
b. Recoveries stayed by								
i. High Courts and Other judicial authorities	99214.69	61613.29	161029.15	47063.18	33330.29	70885.69	29170.08	502306.37
ii. Government	3351.61	0.1	165.86	0	0	77.01	0	3594.58
c. Recovery held up due to								
i. Rectification/review of application	935.23	4.07	0	0	0	0	0	939.30
ii. Dealers/assessee becoming insolvent	925.06	105.11	1.23	100.83	0	0	0	1132.23
d. Amount likely to be written off	5912.29	0	6.68	0	0	0	0	5918.97
e. other stages	45544.59	17427.38	8440.5	14112.11	17262.38	8786.32	40126.96	151700.24
TOTAL	429767.34	161684.58	267303.07	137292.65	109010.37	133069.19	117831.17	1355958.37

1.3 Arrears in assessments

Para No.	Gist of the Audit Para	Remarks
1.3	<u>Arrears in assessments</u> This para indicates the particulars regarding the arrears in assessments such as cases pending at the beginning of the year, cases becoming due for assessments, cases disposed of during the year and number of cases pending for finalisation at the end of the year 2015-16. The details of arrears in assessment were not furnished by the Commercial Taxes Department.	The GST Act has been introduced w.e.f. 01.07.2017. The Department is concentrating more in GST related works. Earnest efforts were taken by the Department for completing the assessments under legacy Acts and KGST Act and majority of arrears in assessments are completed. Steps to complete any pending assessments due to results of appeal etc. are also being taken. The Department has taken earnest efforts to wipe out assessments in legacy Act. Almost all arrear assessments were completed. Section 73/74 of the GST Act mandates the completion of the adjudication process within a specified time frame, ensuring that all GST assessments are finalised accordingly, thus minimizing the possibility of pending assessments. Arrears in assessment related to non GST cases as on 31.03.2023 is as follows.

7

STATEMENT SHOWING THE DETAILS OF ASSESSMENTS FOR THE YEAR 2022-23													
Revenue Head	No. of assessments pending at the beginning of the year 2022-23	Number of assessments due for disposal during 2022-23				No. of assessments completed during 2022-23				No. of assessments pending at the end of the year 2022-23			
		Arrear cases	Current Cases	Remanded cases	Total	Arrear cases	Current Cases	Remanded cases	Total	Arrear cases	Current Cases	Remanded cases	Total
1) a. Sales tax	836	836	737	8	1581	615	252	6	873	221	485	2	708
b. motor spirit tax	162	162	0	0	162	135	0	0	135	27	0	0	27
c. luxury tax	66	66	7	0	73	66	7	0	73	0	0	0	0
d. Tax on works contracts	33	33	0	4	37	26	0	0	26	7	0	4	11
e. others	227	227	505	67	799	162	139	22	323	65	366	45	476
Total	1324	1324	1249	79	2652	1004	398	28	1430	320	851	51	1222
2) Agricultural income Tax	106	106	52	0	158	21	15	0	36	85	37	0	122
Grand Total	1430	1430	1301	79	2810	1025	413	28	1466	405	888	51	1344

1.4. Evasion of tax detected by the Departments

Para No.	Gist of the Audit Para	Remarks
1.4	<p><u>Evasion of tax detected by the Departments</u></p> <p>This para indicates the details of cases of evasion of tax detected by the department. The details were not furnished by Commercial Taxes, Printing and Crop Husbandry Departments and the Directorate of Health Services.</p>	<p>Evasion cases detected by the Department were utilised for assessment and demand created. The Department has taken diligent efforts to ensure timely action in all cases and to finalise assessments under the legacy Act. Steps to complete any pending assessments due to results of appeal etc. are also being taken. The details of tax evasion detected by the Department in non GST cases as on 31.03.2023 is furnished below.</p>

DETAILS OF TAX EVASION DETECTED CASES FINALISED AND DEMANDS FOR ADDITIONAL TAX RAISED AS ON 31.03.2023							
Sl. No.	Head of Revenue	Cases pending as on 31st March 2022	Cases detected during 2022-23	Total	Number of cases in which assessment/investigation completed and additional demand with penalty etc. Raised		Number of cases pending for finalisation as on 31st March 2023
					Number of cases	Amount of demand (in crores)	
1	0040-111 VAT	179	512	691	212	72.9	479
2	0040-102 KGST	595	438	1033	593	61.31	440
3	0040-101 CST	33	43	76	42	55.8	34
4	0045-105 LT	0	65	65	65	0.0022	0
5	Others (AIT-WC)	42	18	60	14	0	46
Grand Total		849	1076	1925	926	190.01	999

1.5 Pendency of refund cases

Para No.	Gist of the Audit Para	Remarks
1.5	<p><u>Pendency of refund cases</u></p> <p>In Commercial Taxes Department, number of refund cases outstanding as at the end of March 2016 was 5449 of which 5448 pertain to refund of Value Added Tax. The Commissioner of Commercial Taxes stated that there were some gaps in the system of refund process and to process the refund application within the time limit prescribed, instructions had been issued to the assessing authorities for compliance.</p>	<p>The pending Refund applications were verified by the assessing authorities concerned and the same are being disposed in this time. Refunds are either being issued or adjusted to the arrears pending. Refund cases related to non GST cases as on 31.03.2023 is as follows.</p>

REFUND CASES PENDING AT THE END OF THE YEAR 2022-23 (in crore)							
Sl. No.	Particulars	Sales Tax		VAT		AIT	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1	Claims outstanding at the beginning of the year 2022-23	2	9.01	120	70.92	21	1.59
2	Claims received during the year	2	0.95	148	11.37	0	0.00
3	Refunds made during the year	0	0.00	117	20.64	0	0
4	Refunds rejected during the year	0	0.00	28	14.54	0	0
5	Balance outstanding at the end of the year 2022-23	4	9.96	123	47.11	21	1.59

1.6 Analysis of stay granted

Para No.	Gist of the Audit Para	Remarks
1.6	<p><u>Analysis of stay granted</u></p> <p>This para indicates analysis of arrears of revenue which were under various stages of collection. The details were not furnished by Commercial Taxes, Land Revenue, printing and Ports Departments.</p>	<p>Most of the stay cases relating to the department are conditional with certain amount paid to exchequer. Earnest efforts are taken to vacate stay and those cases were converted into next level action like RR, collection, modification of assessment. Amnesty 2024 permits dealers to opt the scheme for disputed cases also.</p>

Position of stay granted as on 31.03.2023

Stay cases as on 31 st March 2023 (in lakhs)								
Stages of Action	Up to 2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	Total
Recoveries stayed by								
i. High Courts and Other judicial authorities	99214.69	61613.29	161029.15	47063.18	33330.29	70885.69	29170.08	502306.37
ii. Government	3351.61	0.1	165.86	0	0	77.01	0	3594.58
Total	102566.3	61613.39	161195.01	47063.18	33330.29	70962.7	29170.08	505900.95

1.7 Response of the Government/Departments to Audit

Para No.	Gist of the Audit Para	Remarks
1.7	<u>Response of the</u>	Strict instructions are issued from time to time to
1.7.1	<u>Government/departments to</u>	the assessing officers to furnish replies to audit
	<u>Audit</u>	enquiry in time and to complete assessment in
	Inspection reports issued upto	sustainable cases. The Department has given a
	December 2015 disclosed that	systematic training to all officers with a view to
	24,662 paragraphs involving	minimise the audit observation by the AG and
	Rs.7,253.02 crore relating to	issued the following circular instructions for the
	2,672 IRs were outstanding at	speedy disposal of LAR cases.
	the end of June 2016. This large	1. Circular No. 14/2005/CT dated 24.06.2005
	pendency of the IRs due to non-	2. Circular No. 16/2005/CT dated 23.07.2005
	receipt of the replies is indicative	3. Circular No. 20/2015 dated 29.07.2015
	of the fact that the heads of	4. Circular No. 8/2016 dated 19.07.2016
	offices and the Departments did	5. Circular No. 15/2017 dated 24.11.2017
	not initiate action to rectify the	In order to reduce the pendency of LAR cases,
	defects, omissions and	district wise Audit Monitoring Committee
	irregularities pointed out by the	Meeting has been conducted frequently in co-
	PAG in the IRs.	ordination with AG and Department.
	The Government needs to have	In order to reduce the pendency of LAR and to
	more effective system for	avoid recurrence of defects, following measures
	ensuring prompt and appropriate	are taken.
	response to audit observation	• directions to assessing authorities to furnish
	within the time frame prescribed	first reply to Accountant General within four
	in the Circular issued by the	weeks and to capture full details regarding
	Finance Department by	LAR
	improved monitoring and putting	• to examine the sustainability of cases and to
	in further checks and balances	prepare pendency list based on short levy
	and incentives and disincentives	pointed out
	into this mechanism.	• strict follow up is done and instructions issued
		to complete the assessments incorporating the
		audit objection in a time bound manner.

1.7.2 Departmental Audit Committee Meetings

Para No.	Gist of the Audit Para	Remarks
1.7.2	<p><u>Departmental Audit Committee Meetings</u></p> <p>The Government set up audit committees to monitor and expedite the progress of settlement of local audit reports and paragraphs in the local audit reports.</p>	<p>Audit Committee Meetings on LAR cases have been conducted under the direct supervision of Accountant General. In order to facilitate clearing the old paras, Audit Committee meetings are being conducted district level regularly.</p>

1.7.3 Non production of records to Audit for scrutiny

Para No.	Gist of the Audit Para	Remarks
1.7.3	<p><u>Non production of records to Audit for scrutiny</u></p> <p>During the year 2015-16, files relating to KVAT Assessments in which the turnover of the assessee was above 60 lakhs and KGST assessments in which the tax effect was above 2 lakhs were called for by the audit for scrutiny in Commercial Taxes Department. However, 6,492 tax assessment files relating to 100 offices were not made available to audit of which 2725 files pertained to 27 Special Circles and Works Contract offices, where assessments of major dealers are dealt with.</p>	<p>Assessment files which were not produced for audit during 2015-16 were produced during the subsequent audits.</p> <p>The Department had already issued instructions vide circulars to the assessing authorities to make available all assessment files for scrutiny to audit as early as possible. Follow up in this regard is also taken periodically.</p>

1.7.4 Response of the Departments to the draft paragraphs

Para No.	Gist of the Audit Para	Remarks
1.7.4	<p><u>Response of the Departments to the draft paragraphs</u></p> <p>The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are sent by the Principal Accountant General to the Principal Secretaries/Secretaries of the respective departments drawing their attention to audit findings and requesting their response within six weeks.</p> <p>Forty four draft paragraphs including one performance audit were sent to the Principal Secretaries/Secretaries of the respective departments by name between June and October 2016. The Principal Secretaries/ Secretaries of the Department furnished replies to 25 Compliance Audit paragraphs.</p>	<p>Strict follow up is ensured in furnishing reports to DPs within time limit and at present there is no pendency in furnishing factual report regarding Draft Paras.</p>

1.7.5 Follow up on the Audit Reports – summarised positions

Para No.	Gist of the Audit Para	Remarks
1.7.5	<p><u>Follow up on the Audit Reports – summarised positions</u></p> <p>The PAC discussed 49 paragraphs pertaining to the Audit Reports for the years from 2011 to 2015. However, ATNs have not been received in respect of 114 recommendations of the PAC from the Departments concerned.</p>	<p>The Department has given top priority in submitting Action Taken Notes on PAC Recommendations received. At present, Action Taken Notes on all recommendations for the year of PAC mentioned in the report (2008-11, 2011-14, 2014-16) has been furnished but for additional information sought in 10 Reports (19 paras) received recently and the same will be submitted soon.</p>

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

Para No.	Gist of the Audit Para	Remarks
1.8	<u>Position of Inspection Reports</u>	Strict instructions are issued from time to time to the assessing officers to furnish replies to audit enquiry in time and to complete assessment in sustainable cases. The Department has given a systematic training to all officers with a view to minimise the audit observation by the AG and issued the following circular instructions for the speedy disposal of LAR cases.
1.8.1	The Government arranges Audit Monitoring Committee and Apex Committee Meetings between the Department and office of the Principal Accountant General to settle the old paragraphs. This is indicative of the fact that response to the local audit reports is poor and the steps taken by the Department to clear the outstanding IRs and paragraphs are inadequate.	<ol style="list-style-type: none"> 1. Circular No. 14/2005/CT dated 24.06.2005 2. Circular No. 16/2005/CT dated 23.07.2005 3. Circular No. 20/2015 dated 29.07.2015 4. Circular No. 8/2016 dated 19.07.2016 5. Circular No. 15/2017 dated 24.11.2017 <p>In order to reduce the pendency of LAR cases, district wise Audit Monitoring Committee Meeting has been conducted frequently in co-ordination with AG and Department.</p> <p>In order to reduce the pendency of LAR and to avoid recurrence of defects, following measures are taken.</p> <ul style="list-style-type: none"> • directions to assessing authorities to furnish first reply to Accountant General within time limit and to capture full details regarding LAR • to examine the sustainability of cases and to prepare pendency list based on short levy pointed out • strict follow up is done and instructions issued to complete the assessments incorporating the audit objection in a time bound manner.

1.8.2 Recovery in accepted cases

Para No.	Gist of the Audit Para	Remarks
1.8.2	<p><u>Recovery in accepted cases</u></p> <p>The progress of recovery in accepted cases was slow throughout the last ten years. The recovery in accepted cases was to be pursued as arrears recoverable from the parties concerned.</p>	<p>Serious and dedicated actions are being taken by the department to collect arrears in accepted cases. The recovery of dues in case of all live dealers are done by the Departmental Revenue Recovery authority and the rest of cases are dealt by District Revenue Recovery authority.</p> <p>With a view to collect maximum revenue, Govt. have introduced Amnesty scheme at various periods and the scheme existed till 2022-23. Most of the dealers who have accepted the cases have opted amnesty scheme and paid the dues under the scheme.</p> <p>Currently, in order to dispose of tax arrears under pre-GST tax regimes, the Amnesty scheme 2024, came into effect on August 1.</p> <p>Arrears under the Kerala Value Added Tax Act, Kerala Agricultural Income Tax Act, Kerala General Sales Tax Act, Kerala Tax on Luxuries Act, and Kerala Surcharge on Taxes Act will be considered for the scheme.</p> <p>In the restructured setup of the Department, officers in the cadre of Deputy Commissioners / Assistant Commissioners are appointed as dedicated arrear recovery officers assisted by Assistant State Tax Officers. These officers are exclusively appointed for recovery of arrears under RR.</p> <p>Arrears of revenue still pending collection are at various stages viz. Stay by Court, RR etc.</p>

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

Para No.	Gist of the Audit Para	Remarks
1.9	<p><u>Action taken on the recommendations accepted by the Department/Government</u></p> <p>The draft reports of performance audit conducted by the Principal Accountant General are forwarded to the Department concerned/Government for their information with a request to furnish their replies. These reports are also discussed in an Exit Conference and the views of the Department/Government are included while finalising the reviews the Audit Reports.</p>	<p>Timely action has been taken on the basis of review reports received and Action Taken Notes on all recommendations as mentioned in the Report has been furnished.</p> <p>With regard to the standalone report on Effectiveness of KVATIS, practical difficulties exist in furnishing a full-fledged report. However, the Department had taken all possible efforts to rectify the issues in accordance with the objections, that are sustainable.</p>

Additional Information

Practical difficulties in furnishing reply to Effectiveness of KVATIS

The C & AG Report on "Effectiveness of KVATIS 2014 contains 5 Chapters.

Chapter I – General

Chapter II – Dealer Information System

Chapter III – Check post Management System

Chapter IV – Return processing system

Chapter V – Other important points

The number of cases identified are 29851. No Annexures are appended in the report. Instead, a Compact Disk with details of individual cases were forwarded, which contains 25089 cases. There is mismatch of cases as shown in the report and in the CD.

Normally, the C&AG Report for an year, for eg. 2012, 2013 and 2014 contains only individual cases below 250 numbers. But the report on Effectiveness of KVATIS contains more than 25000 individual cases. The above cases pertains to 15 assessment Districts and it is a huge task to identify the revenue potential cases among them.

The GST has rolled out throughout the country with effect from 01.07.2017 ie the Department shifted the taxation system from VAT to GST from 01 07 2017. The KVATIS software cannot be used to analyse any cases under GST. That means KVATIS software is outdated. The relevance of the software is limited to complete the pending assessment under VAT.

While furnishing the Factual report, several officers have reported their inability to find out the defects pointed out by the Audit. Action on these cases at this point of time is also practically difficult. It is also reported that the defects pointed out by the Audit could not be traced out through KVATIS. The assessing authorities are in darkness since they cannot find out the defects pointed out by AG and are unable to furnish report. However, Department had taken sincere effort to identify the cases and action taken on potential cases and report furnished to Government.

In Revised Budget Speech (2016-17) para 47, it was mentioned that there are 4574 cases in the KVATIS Special Report of (2014) of the CAG which requires further action, but list of cases were not provided.

It is to be concluded that there is improper mapping and collation of data by the audit in preparation of the audit findings. As the software used by the audit team is a third party software “IDEAS” which does not provide the design logic of the database tables incorporated in KVATIS, there must be manual mapping undertaken by the audit team which may have resulted in reporting defects that are non existing or not traceable. It is therefore submitted that the untraceable defects pointed out by the audit team are nonexistent as the logic by which the defect is built is known only to the audit party.

1.10 Audit Planning

Para No.	Gist of the Audit Para	Remarks
1.10	<p><u>Audit Planning</u></p> <p>The unit offices under various departments were categorised into high, medium and low risk units according to their revenue position, past trends of audit observations, complaints, media reports, non-production of records, information regarding malpractice obtained through RTI and misappropriation. The annual audit plan was prepared on the basis of risk analysis which inter-alia included critical issues in government revenue, tax administration i.e. budget speech, white paper on finances, reports of the Finance Commission (State and Central), recommendation of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during the past five years etc.</p> <p>During the year 2015-16, there were 823 audit units, of which 461 units were planned and audited, which is 56.01 per cent of the total audit units.</p>	No remarks

1.11 Results Audit

Para No.	Gist of the Audit Para	Remarks
1.11	<p><u>Results Audit</u></p> <p>Position of local audit conducted during the year</p> <p>Test check of the records of 461 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles and other Departmental offices conducted during the year 2015-16 showed under-assessment/short levy/loss of revenue aggregating to Rs.4,276.95 crore in 3,408 cases. Deficiencies in the management of finance and inadmissible expenditure from State Disaster Response Fund with expenditure impact of Rs.153.63 crore was also noticed in one case. During the course of the year, the Departments concerned accepted under-assessment and other deficiencies of Rs.3283.52 crore involved in 789 cases which were pointed out in audit during 2015-16. The Departments collected Rs.58.67 crore in 1,358 cases during 2015-16, pertaining to the audit findings of previous years.</p>	<p>Subsequent to the receipt of Local Audit Reports, the assessing authority concerned had initiated action to rectify the issue pointed out within the time limit by way of assessment in sustainable cases and additional demand created in order to made good the short levy. In collection pending cases appropriate steps are taken timely to realise the arrears. Most of the old pending arrears were settled under the Amnesty schemes introduced. Strict follow up has been taken and Department had taken earnest efforts in order to settle the LAR cases. The District wise Audit Committee Meetings conducted by the AG had helped in clearing old pending LAR cases.</p>

1.12 Coverage of this Report

Para No.	Gist of the Audit Para	Remarks
1.12	<p><u>Coverage of this Report</u></p> <p>The Report contains 27 paragraphs which came to notice in the course of test audit of records during the year 2015-16 as well as those in earlier years involving revenue impact of Rs.3,458.41 crore and expenditure impact of Rs.153.63 crore. Instances relating to the period subsequent to 2015-16 have also been included wherever necessary. The Department/Government have accepted audit observations involving Rs.3,206.53 crore out of which Rs.35.49 crore had been recovered.</p>	Spread over to Chapter II to V

CHAPTER II

2.1 Tax Administration

Para No.	Gist of the Audit Para	Remarks
2.1	<p>Tax Administration</p> <p>Kerala General Sales Tax (KGST)/Kerala Value Added Tax (KVAT) laws and rules made thereunder are administered at the Government level by the Additional Chief Secretary, Taxes. The Commissioner of Commercial Taxes(CCT) is the head of the Commercial Taxes Department (CTD) who is assisted by Joint Commissioners(JCs), Deputy Commissioners(DCs), Assistant Commissioners (ACs) and Commercial Tax Officers. The assessment, levy and collection of tax are done by ACs and Commercial Tax Officers. KGST is leviable on sale of Ganja and opium, foreign liquor and certain petroleum products. KVAT is leviable on the intra-State sale of remaining commodities and Central Sales Tax (CST) on inter State sales.</p>	<p>This para discusses erstwhile organisational set up and tax administration set up of the Department.</p> <p>As per GO(Ms) 55/2022/Taxes dated 02.08.2022, Department has been re-organised into three major verticals. The new three major verticals are Taxpayer Services, Audit and Intelligence & Enforcement. In the new scenario, the Commissioner is the head of the State GST Department who is assisted by Special Commissioner, Additional Commissioners, Joint Commissioners, Deputy Commissioners, Assistant Commissioners / State Tax Officers and Assistant State Tax Officers. The Joint Commissioner, Deputy Commissioner, Assistant Commissioner / State Tax Officer and Assistant State Tax Officers are the proper officers for specific functions assigned to them for the assesseees falling within their pecuniary jurisdiction.</p>

2.2 Internal Audit

Para No.	Gist of the Audit Para	Remarks
2.2	<p>Internal Audit</p> <p>The Internal Audit Wing (IAW) in the CTD commenced functioning from 1 June 2009. The wing headed by one DC is assisted by two ACs and five Commercial Tax Officers. During 2015-16, the wing planned audit of 72 units but could audit only 56 units. Potential cases and collection fall cases are compulsorily checked by the wing. Out of an overall outstanding of 5,478 paras, only 306 paras (5.59 per cent) were cleared. This indicated the poor response of the CCT to the observations of the IAW and in enforcing clearance of the paras by addressing the shortcomings/deficiencies pointed out by the wing.</p>	<p>In the KVAT Act period, the Internal Audit Wing was organised as per order No. A1-21044/09/CT dated 18.05.2009 and Internal Audit Wing started with effect from 01.06.2009. Head quarters of Internal Audit Wing was at Thiruvananthapuram and 3 regional offices at Ernakulam, Thrissur and Kozhikode.</p> <p>The structure and functions of the Department had changed subsequent to the introduction of GST and the restructuring of Department is completed in accordance with the Government Order GO(Ms) No. 55/2022/Taxes dated 02.08.2022.</p> <p>Pursuant to restructuring, the nature of work done by the Internal Audit Wing is allotted to the Review cell which has 3 Deputy Commissioners, 6 State Tax Officers and 10 Assistant State Tax Officers (para 20 of the GO). Further there is also an Internal Audit and Vigilance Cell who will perform Departmental audit and vigilance functions, consisting of 1 Deputy Commissioner, 1 State Tax Officer / Assistant Commissioner, and 3 Assistant State Tax Officers (para 23 of the GO). People have been posted and the modalities are being worked out.</p>

Additional Information

In the KVAT Act period, the Internal Audit Wing was organised as per order No. A1-21044/09/CT dated 18.05.2009 and Internal Audit Wing started with effect from 01.06.2009. Head quarters of Internal Audit Wing was at Thiruvananthapuram and 3 regional offices at Ernakulam, Thrissur and Kozhikode. Senior level officers having good awareness in return scrutiny and assessment were posted as Audit Officers in the erstwhile Internal Audit Wing. Regular training was given both under VAT and GST to all officers of the Department by the training wing of the Department, which is sufficient for the purpose.

On analysis of the situation that GST was implemented in July 2017, E-audit was conducted in 38 units in 2019-20 and 1548 audit paras were generated. Further, 817 state wide audit paras were generated. In 2020-21, 3816 state wide audit paras was generated.

In VAT, the Internal Audit team has scheduled the system of compulsory scrutiny of all files having turnover above 60 lakhs and the same had been done through e-platform from May 2018 onwards. Since the dealer transaction details are available in electronic form, the Audit Officers are directed to verify annual returns, audit reports, closing stock inventory, check post data, 8FA declaration, cross checking of invoices build from counter part dealers, online delivery notes etc. through KVATIS. Assessment offices where internal audit was completed upto 2012-13 assessment year was selected for auditing. Out of the selected offices potential offices were selected for e-audit. Each audit officer was provided with list of files selected for scrutiny based on the criteria of dealers having turnover above 60 lakhs during the period 2016-17. The Audit team scrutinize each files assigned to them through KVATIS. While doing scrutiny, the team members were directed to do compulsory scrutiny of the dealers pertaining to the period 2013-14 to 2016-17.

GST was introduced from 01.07.2017 onwards, and the Department could do the legacy work of VAT in GST period also. The policy of the Department was not to be bogged down too much with VAT work in GST scenario so that the Department's focus could be shifted to GST at the earliest.

So the discrepancies and the data in the scrutiny module for major dealers across the State was taken and the internal audit wing conduct a special e-audit programme to weed out the exorbitant discrepancies as mentioned earlier. This e-Audit scrutiny reports were then forwarded to the circles for further action including for assessment and necessary steps are taken.

In 2021-22 pursuant to the decision that no new cases of legacy act need be generated, no new internal audits were planned or done. The Department was also on the verge of restructuring which happened vide GO(MS) 55/2022/Taxes dated 02.08.2022. The available manpower was utilised clearing pending legacy audit paras and conducting the statutory GST audit in an experimental manner as per the order of the Commissioner CT/4147/2021-A1 dated 17.12.2021.

Pursuant to restructuring, the nature of work currently done by the Internal Audit Wing is allotted to the Review cell which has 3 Deputy Commissioners, 6 State Tax Officers and 10 Assistant State Tax Officers (para 20 of the GO). Further there is also an Internal Audit and Vigilance Cell who will perform Departmental audit and vigilance functions, consisting of 1 Deputy Commissioner, 1 State Tax Officer / Assistant Commissioner, and 3 Assistant State Tax Officers (para 23 of the GO). People have been posted and the modalities are being worked out.

The disposal status is as follows.

Year	Opening Balance			Additions during the year			Clearance during the year			Balance at the close for the year			Percentage of disposal
	Inspection Reports	Audit Observations	Amount (in lakhs)	Inspection Reports	Audit Observations	Amount (in lakhs)	Inspection Reports	Audit Observations	Amount (in lakhs)	Inspection Reports	Audit Observations	Amount (in lakhs)	
2021-22	397	14760	Not ascertained	0	0	0	180	6018	Not ascertained	217	8742	Not ascertained	40.17
2022-23 upto 12.01.2023	217	8742	Not ascertained	0	0	0	146	3330	Not ascertained	71	5412	Not ascertained	38.09
2023-24	71	5412	Not Ascertained	0	0	0	1	75	Not Ascertained	70	5337	Not Ascertained	1.39

2.3 Results of Audit

Para No.	Gist of the Audit Para	Remarks
2.3	<p><u>Results of Audit</u></p> <p>Test check of the records relating to KVAT/KGST and CST assessments and connected documents in 171 offices of the CTD conducted during 2015-16 showed under assessment of tax and other irregularities involving Rs.3,899.70 crore in 2,240 cases.</p> <p>During the course of the year, the Department accepted under assessment and other deficiencies involving Rs.3,040.03 crore in 445 cases which were pointed out by Audit. An amount of Rs.20.56 crore was realised in 551 cases during the year 2015-16 of which 48 cases involving Rs.58.70 lakh were pointed out during 2015-16 and the rest in earlier years.</p> <p>In two draft paragraphs involving Rs.22.41 lakh, the Department recovered the entire amount. A few Audit observations involving Rs.3,225.43 crore are mentioned in the following paragraphs.</p>	Spread over succeeding paras.

Para No.	Gist of the Audit Para	Remarks
2.4 2.4.1 2.4.2 2.4.3	Assessment, levy and collection of VAT on gold, diamond and platinum Introduction Audit objectives and scope of Audit findings	No remarks

Para 2.4.3.1

Para No.	Gist of the case	Present position
<p>2.4.3.1</p> <p>Sl.No.1 to 4</p>	<p>As per Section 8(f)(i) of the KVAT Act, 2003 as amended by Finance Act, 2014, any dealer in bullion or ornaments or wares or articles of gold, silver or platinum group metals including diamond may at his option, instead of paying tax on their sale in the State in respect of such goods in accordance with the provisions of Section 6, may pay tax at appropriate rates according to the turnover of the highest tax payable by him as conceded in the return or accounts, or tax paid by him under this Act, whichever is higher, for any year during any of the three consecutive years preceding that to which such option relates. As per Section 2 of Finance Act, 2014, the above provision had retrospective effect from 01 April 2013.</p> <p>As per the provision contained in 8(f)(i) of the KVAT Act, 2003 the assessee is liable to pay purchase tax for the purchases effected from unregistered dealers from 2013-14 onwards.</p> <p>A test check of dealers opting for compounded scheme for the period from 2013-14 and 2014-15 in 119 assessment circles in 15 tax districts revealed that the respective assessing authorities did not levy tax under Section 6(2) of KVAT Act, 2003 in respect of 184 dealers in 68 assessment circles in 15 tax districts. Non levy of purchase tax resulted in short levy of 2,475.55 crore including interest and penalty.</p>	<p>In this para audit illustrates the following 4 cases.</p> <ol style="list-style-type: none"> 1. M/s. Kalyan Jewellers India Pvt. Ltd. / 32080204326 / 2013-14 & 2014-15 2. Josco Fashion Jewellers/ 32050207484 / 2013-14, 2014-15 3. Bhima Jewels / 32070373424 / 2013-14, 2014-15 4. Josco Jewellers Private Limited/ 32050212502 / 2013-14, 2014-15 <p>The audit objection is not sustainable for the following reasons.</p> <p>As per the Kerala Finance Act 2017, a proviso to Section 6(2)(a) was inserted which states as follows:</p> <p>‘provided that notwithstanding anything contained in clause(f) of Section 8, a dealer paying compounded tax for goods mentioned in that clause, shall not be liable to pay tax under this sub section on such goods with effect from 1st April, 2013’.</p> <p>Accordingly the Honourable High Court vide its judgment in WP(C) No.995/2017 dated 11.07.2017 allowed the petition filed by various dealers by quashing the impugned notices that proposed assessment to the purchase tax, the impugned orders, to the extent, they confirm a demand of purchase tax and the impugned penalty orders.</p> <p>Hence the audit objection is not sustainable.</p>

Para 2.4.3.2

Para No.	Gist of the case	Present position
2.4.3.2 Sl.No.1 to 4	<p>As per Section 8(f)(i) of KVAT Act as it stood upto 31.3.2014, if a dealer had paid compounded tax for the previous year and his total turnover is rupee one crore and above, the compounded tax payable is 125 percent of the compounded tax paid/payable for the previous year. Section 8(f)(i) of the Act was amended by Finance Act, 2014 with retrospective effect from 01 April 2013. As per the amendment, if a dealer had paid compounded tax continuously for the last three years/five years and his total turnover is one crore and above, the compounded tax payable is 120 percent/115 per cent of the compounded tax paid/payable. Dealers filed compounding option for 2013-14 under the rate existed for compounded tax on due date (30 April 2013) as stipulated by KVAT Rules, 2005. On presentation of the budget for 2014-15, the Department issued circular (March 2014) to file fresh compounding option to give advantage of retrospective effect proposed in Budget Speech. As the KVAT Rules prescribe the last date of filing option as 30 April of every year, the Circular issued to file fresh option on a subsequent date was irregular. On a test check of assessment files in 119 assessment circles, it was revealed that in respect of 81 dealers</p>	<p>In this para, audit illustrates the following 4 cases.</p> <ol style="list-style-type: none"> 1. M/s. KALYAN JEWELLERS INDIA PRIVATE LIMITED/ 32080204326 /2013-14 2. M/s. JOSCO FASHION JEWELLERS / 32050207484 /2013-14 3. M/s. BHIMA JEWELS / 32070373424 / 2013-14/ 4. M/s. JOSCO JEWELLERS PVT. LTD. / 32050212502 /2013-14 <p>As per the Finance Act 2014, Sec 8(f) of the KVAT Act (Gold Compounding) was amended with retrospective effect from 1st April 2013. Dealers who are willing to opt for a compounding scheme were required to file a compounding application in Form 1D before 30th of April every year as prescribed under sub-rule (1) of Rule 11 of the Kerala Value Added Tax Rules, 2005. Since the amendment to section 8(f) was given retrospective effect from 01/04/2013 as per the Kerala Finance Act, 2014, dealers who had already filed compounding applications in the financial year 2013-14 could also take the benefit of reduced rates announced in the budget speech, 2014 by filing fresh applications. As the intention of the legislature was to extend the benefit of the scheme to all dealers including those who had already opted in 2013-14, Circular no.7/2014 was issued permitting them to file fresh options till 31st March 2014.</p> <p>The impugned circular No.7/2014 was issued by the Commissioner of Commercial Taxes, Kerala and is binding on all assessing authorities. As per Section 3(1) of the KVAT Act 2003, "The</p>

	<p>in 31 assessment circles, in 15 tax districts the compounded tax for 2013-14 paid/agreed to be paid was adjusted which resulted in short collection of 61.48 crore.</p>	<p>Commissioner of Commercial Taxes shall have and exercise all the powers and shall perform all the duties conferred or imposed upon him by or under this Act.' As per section 3(2), "The Commissioner shall have superintendence over all officer and persons employed in the execution of the KVAT Act and the Commissioner may issue such orders, instructions and directions to such officers and persons as it deem fit, for the proper administration of the Act. As such all subordinate officers are bound to obey the circular issued by the Commissioner. As per Finance Act 2014, the Honourable Kerala Legislature in exercise of its constitutional powers amended the section 8(f) of KVAT Act 2003 with effect from 01.04.2013. This Substantive law is valid piece of legislation, unambiguous and sustainable in the eye of law. The Kerala Value Added Tax Rules is the procedural law to implement the substantive law. The impugned circular clarifies the procedural law to be followed in the particular fact situation. It is settled law that when there is conflict between substantive law and procedural law, the substantive law will prevail. This being the law and fact of the case, audit objection against procedural law and circular is not sustainable.</p>
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Para2.4.3.3

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.1	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>1. M/s. Bhima Gold and Gems Pvt Ltd</u> <u>(32061419965)</u> <u>2013-14</u> <u>CTO, Special Circle, Thodupuzha</u></p> <p>M/s. Bhima Gold and Gems Pvt Ltd opted compounding scheme U/s 8 of the KVAT Act 2003 during the year 2013-14 ie. prior to the introduction of Kerala Finance Act 2014. It is clearly mentioned in the Finance Act 2014 that “ Provided that, the tax collected by the dealer at the rate not exceeding 1.25% during the year 2013-14 shall be deemed to be validity collected”. This clearly proves that the tax collected by the dealer @ 1.25% was correct and complete. The Kerala Finance Act 2011 (the last amendment in respect of Gold compounded dealer) permitted compounded dealer to collect tax @ 1.25%. This authorization of collection of tax was as per Kerala Finance Act 2011 and same (exist) must remain as such unless the same is amended. This provisions was amended in 2014 Financial Year only. Till this the Finance Act related to the year 2011 is in force. Hence in the Finance Act 2014, it is clearly entered that “the tax collected by the dealer at the rate not exceeding 1.25% during the year 2013-14 shall be deemed to be validly collected”. In these circumstances the tax collected by the dealer was in accordance with the authorization granted in Kerala Finance Act 2011 and in accordance with law.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.3</p> <p>Sl.No.2</p>	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>2. M/s. Bhima Gems (Adoor) Pvt. Ltd.</u> <u>Adoor, (32030259344)</u> <u>2013-14</u> <u>CTO, Pathanamthitta</u></p> <p>M/s. Bhima Gems (Adoor) Pvt. Ltd, Adoor with TIN:32030259344 is a dealer in Gold and opted compounding scheme to pay tax for the year 2013-14. In the previous year during 2012-13 the dealer had not opted for compounding. The audit team pointed out that the dealers who are paying tax under the compounded scheme during the previous year alone are entitled to collect tax. The dealers who are compounding for the first time in 2013-14 are not entitled to collect tax and the illegal collection needs to be forfeited to Government.</p> <p>The table under sub clause (iii) of section 8(f) of KVAT Act provides that "compounded tax payable for the year under option of the tax paid or payable under this clause for the previous year/years in percentage". Thereunder, percentage of compounded tax payable starting from 103% to 150% of the tax paid for the previous year is provided under first column against percentage of tax that can be collected starting from 1.03% to 1.5% in the second column. The tax collected in excess of the prescribed rates shall be paid over to the Government in addition to the tax payable under this clause.</p> <p>Here, 'under the clause' means clause (f) which partakes compounded dealers both under sub clause (i) and (vii) of clause (f) of</p>

		<p>Section 8 of KVAT Act 2003. No words in the above provision indicate that collection of tax is permitted only to compounded dealers who have compounded for the previous year alone and is not permissible to dealers who have compounded for the first time. Thus it is very clear that the power to collect tax at the rates mentioned therein has been given to dealers who opt for compounding under section 8 (f) or compounded continuously for the previous year. The interpretation that it is applicable only to dealers who have been compounding for the previous year alone is therefore not correct. However, pointing out the audit objection, notices U/S 25(A) & 67(1) of KVAT Act 2003 were issued to the assessee. Against the notice the dealer filed WP(C) No.36584/2016(w) before the Hon'ble High Court and obtained stay. This case is still pending before the court.</p>
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Para No.	Gist of the case	Present position
<p>2.4.3.3</p> <p>Sl.No.3</p>	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>3. Riches Jewel Arcade (32140465165) 2014-15</u></p> <p><u>CTO, Vythiri at Kalpetta</u></p> <p>In this case the audit objection raised against the dealer is non sustainable on the following ground.</p> <p>The contention that the dealer cannot collect tax U/s.8(f) of the KVAT Act 2003 that they being the compounded dealer first time for the year 2013-14 is a wrong interpretation of the Act. There are two provisions for payment of compounded tax U/s.8(f) of the Act. The first one is U/s.8(f) (i)(a),(b),(c),(d) of the KVAT Act 2003, which is applicable for the payment of compounded tax for the first time.</p> <p>The second provision for the payment of compounded tax is as per such clause(vii) of the Sec 8(f) and such clause(iii) of explanation 6 of the KVAT Act is applicable to all dealer, whether first time compounded or repeatedly compounded.</p> <p>Further, it has also been stated in the provision that if there is excess collection that what has been proved therein, then the excess collected tax also should be paid. Sec 8(f) of the KVAT Act 2003 read as follows:</p> <p><i>“(iii) a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below. But where the tax so collected during the year is in excess</i></p>

		<p><i>of any tax payable for the year under this clause, the tax collected in excess should be paid over to Government in addition to the tax payable under this clause.</i></p> <p><i>Provided that the tax collected by the dealer at the rate of exceeding 1.25% during the year 2013-14 shall be deemed to be validly collected."</i></p> <p>However a pre-assessment notice U/s.25(A) of the KVAT Act 2003 has been issued to the dealer to recover the tax of collected.</p>
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Para No.	Gist of the case	Present position
<p>2.4.3.3</p> <p>Sl.No.4</p>	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>4. M/s Bhima Jewellers and Diamonds (TIN.32010186328)</u></p> <p><u>2014-15</u></p> <p><u>CTO, Special Circle,</u></p> <p><u>Thiruvananthapuram</u></p> <p>Notice has been issued to the dealer vide 32010186328/2014-15 dated 09.09.2016 proposing the demand purchase tax under Section 6(2) of the KVAT Act 2003 on the basis of the audit enquiry by the Accountant General. The dealer filed WP(C) No.36572/2016 before the Honourable High Court of Kerala. The Honourable High Court decided the case vide its judgment dtd.20.07.2017 in accordance with the provisions of the Finance Act 2017 in which Section 6(2) of the KVAT Act, 2003 was amended by inserting: <i>“provided that notwithstanding anything contained in clause(f) of Section 8, a dealer paying compounded tax for the goods mentioned in that clause, shall not be liable to pay tax under the sub Section on such goods with effect from 1st April, 2013”</i>.</p>

45
Para 2.4.3.3

Para No.	Gist of the case	Present position
2.4.3.3 SL.No.1	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>1. M/s Bhima Jewellers and Diamonds (TIN.32010186328)</u> <u>2014-15</u> <u>CTO, Special Circle,</u> <u>Thiruvananthapuram</u></p> <p>Notice has been issued to the dealer vide 32010186328/2014-15 dated 09.09.2016 proposing the demand purchase tax under Section 6(2) of the KVAT Act 2003 on the basis of the audit enquiry by the Accountant General. The dealer filed WP(C) No.36572/2016 before the Honourable High Court of Kerala. The Honourable High Court decided the case vide its judgement dtd.20.07.2017 in accordance with the provisions of the Finance Act 2017 in which Section 6(2) of the KVAT Act, 2003 was amended by inserting: <i>“provided that notwithstanding anything contained in clause(f) of Section 8, a dealer paying compounded tax for the goods mentioned in that clause, shall not be liable to pay tax under the sub Section on such goods with effect from 1st April, 2013”.</i></p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.2	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>2. Revathy Fashion Jewellery</u> <u>(32010754915)</u> <u>2013-14</u> <u>CTO, Second Circle, Thiruvananthapuram</u></p> <p>Based on the audit objection the assessment was completed U/s 25(A) on 03.09.2020 creating an additional demand of Rs.1,25,090/- (Tax: Rs.68,623/-, Interest:Rs.51,467/- and Penalty: Rs.5,000/-). The dealer settled the demand under Amnesty Scheme 2020 by paying an amount of Rs.27,450/- vide challan No. KL012237089202021E dtd 12.11.2020.</p>

47

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.3	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>3. Rainbow Jewellers(32011113565)</u> <u>CTO, Attingal</u> <u>2013-14</u></p> <p>The assessment in respect of M/s.Rainbow Jewellers, Kilimanoor has completed vide order No.32011113565/13-14 dtd. 30-8-2018 and created additional demand of Rs.3,40,827/-. The dealer filed appeal before the Deputy Commissioner(Appeals), Thiruvananthapuram after remitting 20% of the tax amount Rs.44,500/- Vide Chalan No.KL006156295201819M. Hence the demand is deemed to be stayed till the disposal of the Appeal. After the introduction of Amnesty Scheme 2020-2021 the dealer had withdrawn the appeal and completely remitted the amount under Amnesty scheme.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.4	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>4. Mangalya Jewellers(32011166395) 2013-14 CTO, Attingal</u></p> <p>Based on the audit objection the assessment in respect of M/s.Mangalya Jewellery has completed as per vide order No.32011166395/2013-14 dtd 01.04.2022. As per order Tax due is Rs.2,25,612/-, Interest due is Rs.2,16,588/- and Penalty due is Rs.5,000/-. After the introduction of Amnesty Scheme 2022 the dealer completely remitted the amount under Amnesty scheme.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.5	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>5. Archana Jewellery (32020661992)</u> <u>2013-14</u> <u>CTO, First Circle, Kollam.</u></p> <p>The assessment has been completed on 02.12.2016. The assessee paid full demand of Rs.1,000/- with interest.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.6	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>6. Krishna Gold(32020810885)</u> <u>2014-15</u> <u>CTO, Third Circle, Kollam</u></p> <p>The defect pointed out in the Audit enquiry has been verified and completed the assessment u/s 25(A) vide order No.32020810885/14-15 dtd. 10.11.16 by creating demand of tax Rs.1,24,020/-, Interest: Rs.21,083/- and Penalty: Rs.5,000/-. The amount advised under RR before the revenue authority vide RRC No.09/17-18. No collection has been reported yet.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.7	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>7. Travancore Jewellers</u> <u>(32020907231)</u> <u>2014-15</u> <u>CTO, Karunagapally</u></p> <p>Assessment in respect of Travancore Jewellers, Karunagapally for the year 2014-15 according to the C & AG Report 2016 was completed as per Order No.32020907231/14-15 dated 03.01.2017 demanding illegally collected tax of Rs.8,27,911/- and Interest Rs.1,65,582/-. Aggrieved by the order the dealer went to Deputy Commissioner (Appeals), Kollam and paid 20% tax amount of Rs.1,65,600/- as per Chalan No.6627696/21.03.2017 for obtaining stay. Finally Deputy Commissioner (Appeals) disposed the appeal directing the assessing authority to verify the books of accounts and relevant records and pass orders according to law.</p> <p>As per the direction of the Appellate Authority, the Assessing Authority verified the books of accounts for the year 2014-15 and found that no compounded tax had been collected. The amount was wrongly entered in the Column in the annual return filed by the dealer in Form No.10DA. Hence the assessment on illegal tax collection was dropped. Being a compounded dealer there is no liability u/s. 6(2) of the Act. Hence the amount was modified as recorded.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.8	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>8. Vilayil Jewellers (32020998085) 2013-14</u> <u>CTO, Karunagapally</u></p> <p>The assessment in respect of Sri.Shi-habudeen, Vilayil Jewellers for the year 2013-14 is completed as per Order No.32020998085/13-14 demanding tax illegal collected of Rs.41,440/- and interest Rs.13,261/-. Dealer paid the demand as per Chalan Nos.</p> <p>(1) Rs.8,300/- - 5348147/23.08.2017 (2)Rs.10,000/- KL001555347201920M dated 09.05.2019 (3) Rs.10,000/- - 3836786/27.06.2019 (4)Rs. 5,000/- - 5470697/30.07.2019 (5)Rs.4,100/- - KL006683287201920M/ 31.08.2019 (6)Rs.4,040/- - KL007907634201920M/ 30.09.19</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.9	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>9. THANKAMALIKA JEW-ELLERY(32021005825)</u> <u>2013-14</u> <u>CTO, Kottarakkara</u></p> <p>As per Audit enquiry assessment completed on 28.09.2016 creating demand of Rs.1,17,375/- and the assessee paid Rs. 26,260/- as per chalan KL005358397201617M dated: 14.02.2017. The dealer opted amnesty scheme 2020 and paid Rs.24,614/- as per chalan KL021936486202021E dated 04.02.2021.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.10	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>10. NAZCO GOLD SOUK</u> <u>(32021042477)</u> <u>2013-14</u> <u>CTO, Kottarakkara</u></p> <p>As per Audit enquiry assessment completed on 28.09.2016 creating demand of Rs.2,40,455/-. Paid Rs.75,000/- as per chalan No.29/23.12.16, Rs.1,00,000/- as per chalan No.K-L003273838201617M dated 21.06.2017 and Rs.86,131/- as per chalan No.KL004186058201718M dated 20.07.2017 .</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.11	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>11. Edimannikkal Jewellery</u> <u>(32021163415)</u> <u>2013-14</u> <u>CTO, Punalur</u></p> <p>Assessment under section 25(A) was completed on 29.11.16. The Hon'ble high court as per wp© 39748/16 has set aside the order. Fresh assessment was completed on 02.05.2017 creating demand of Rs.17,20,394/-, Interest:Rs.8,42,993/-, Penalty:Rs. 34,40,788/-. The assessee opted Amnesty Scheme and remitted 50% of tax as per chalan No. KL004486697202021E dated 10.07.2020 .</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.12	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>12. Henna Jewellery(32021204038) 2013-14 CTO, Kundara</u></p> <p>As per Audit enquiry assessment completed as per order No 32021204038/2013-14 dtd. 15.02.2017 with tax: Rs.21,109/-, interest Rs.7,178/-, Penalty Rs. 5,000/-. The assessment order set aside as per order No KVATA 1217/2017 of AC(Appeals), Kollam, dated 06.03.2020.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.13	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>13. Royal Jewellers(32021420602)</u> <u>2013-14</u> <u>CTO, Anchal</u></p> <p>As per Audit enquiry assessment completed on 6.01.2017 creating demand of Rs.83,783/-. Remitted Rs.18,000/- (KL009898097201718M dtd.17.01.2018), Remitted Rs.7,500/- (KL00644333201920M dtd. 26.08.2019), Remitted Rs.7,500/- (KL008709474201920M dtd. 17.10.2019), Remitted Rs.10,000/- (KL014068109201920M dtd. 31.03.2020).</p> <p>Total Remitted: Rs.43,000/-. Opted Amnesty Scheme 2021 for balance amount. Interest Rs.37616/- waived. Balance payable: Rs.19,995/- (Rs.62,995/- – Rs.43,000/-)</p> <p>As per Amnesty scheme 2021, 60% of this amount paid. Remitted Rs.11,997/- (KL009283990202122E dtd. 30.08.2020)</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.14	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>14. M/s. Bhima Gemes (Adoor) Pvt. Ltd, Adoor, (3230259344) 2013-14 IAC, Pathanamthitta</u></p> <p>M/s. Bhima Gems (Adoor) Pvt. Ltd, Adoor with TIN: 32030259344 is a dealer in Gold and opted compounding scheme to pay tax for the year 2013-14. In the previous year during 2012-13 the dealer had not opted for compounding. The audit team pointed out that the dealers who are paying tax under the compounded scheme during the previous year alone are entitled to collect tax. The dealers who are compounding for the first time in 2013-14 are not entitled to collect tax and the illegal collection needs to be forfeited to Government.</p> <p>The table under sub clause (iii) of section 8(f) of KVAT Act provides that "compounded tax payable for the year under option of the tax paid or payable under this clause for the previous year/years in percentage". There under percentage of compounded tax payable starting from 103% to 150% of the tax paid for the previous year is provided under first column against percentage of tax that can be collected starting from 1.03% to 1.5% in the second column. The tax collected in excess of the prescribed rates shall be paid over to the Government in addition to the tax payable under this clause.</p> <p>Here under the clause means clause (f) which partakes compounded dealers both under sub clause (i) and (vii) of clause (f) of Section 8 of KVAT Act 2003. No words in the above provision indicate that collection of tax is permitted only to compounded dealers who have compounded for the previous year alone and is not permissible to dealers who have compounded for the first time. Thus it is very clear that the power to collect tax at the rates mentioned there in has been given to dealers who opt for compounding under section 8 (f) or compounded continuously for the previous year. The interpre-</p>

		<p>tation that it is applicable only to dealers who have been compounding for the previous year alone is therefore not correct. However, pointing out the audit objection, notices U/s 25(A) & 67(1) of KVAT Act 2003 were issued to the assessee. Against the notice the dealer filed WP(C) No. 36584/2016(w) before the Hon'ble High Court and obtained stay. This case is still pending before the court.</p>
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Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.15	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>15. SKY JEWELLERY</u> <u>(32040237025)</u> <u>2013-14</u> <u>CTO, Special Circle, Alappuzha</u></p> <p>M/s. Palathumpattu Sky Jewellery has computed under section 8(f) of the KVAT Act 2003 for the year 2013-14 and filed annual return in Form No. 10DA disclosing a total and taxable turnover of Rs.33,03,00,530/-. The assessee was permitted to collect tax upto Rs.41,28,757/-. But they have collected on Rs.34,81,472/-.</p> <p>"As per clause(iii) of Explanation 6 under section 8(f) of the KVAT Act 2003, as amended by Finance Act 2014, a dealer was permitted to collect tax not exceeding 1.25% during the year 2013-14 and it shall deemed to be validly collected."</p> <p>Hence this collection cannot be treated as illegal collection, which is deemed to be validly collected as per the provisions of the amendment in the Finance Act 2014.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.16	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>16. Brothers Jewellery(32040514225) 2013-14 CTO, I Circle, Alappuzha</u></p> <p>The assessment in respect of the dealer has been completed vide order no.32040514225/2013-14 dtd. 30.09.2016 based on the defects pointed out in the Audit, creating an additional demand of tax Rs.1,06,986/-, Interest Rs.31,026/- and also a penalty of Rs.5,000/-. The dealer remitted tax Rs.64,192/-, Interest Rs.45,887 and penalty Rs.2,905/- vide chalan numbers 33 dtd. 26.12.2016, KL005138552201819M dtd. 14.08.2018, KL006103052201819M dtd. 18.09.2018 and KL007467785201819M dtd. 26.10.2018. The dealer had opted the balance dues (Tax:Rs.22,604/- and penalty Rs.5,000/ for the year 2013-14 under the Amnesty Scheme 2019 vide application dated 02.05.2019. Amount already remitted in excess has been given credit to the tax and penalty nullified, as per the circular No.3/2019 of the CCT related to the Amnesty Scheme 2019. Hence no dues outstanding against the dealer.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.17	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>17. HAMEED GOLD 32040675832</u> <u>2013-14</u> <u>CTO, II Circle, Alappuzha</u></p> <p>Based on the audit objection, the assessment in respect of M/s. Hameed Gold for the year 2013-14 was completed on 30.09.2016 creating additional demand of Rs.65,550/- (Tax Rs.50,424/- and Interest Rs.15,126/-). The amount is advised for RR to Assistant Commissioner, Alappuzha. The assessee remitted Rs.13,110/-, being 20% of the demand and filed appeal before the Assistant Commissioner, Alappuzha. In appeal the assessee argued that they are in the status of Compounding and regularly paying tax at compounded rate and no amount is collected as provided in Section 8(f)(iii) of the KVAT Act. The Appellate Authority as per order No. KVATA(Alpy) 236/16 dated 28.02.2018, directed the assessing authority to verify the same with reference to the books of accounts and to modify the assessment accordingly. Not satisfied with the appellate order, State filed second appeal before the Appellate Tribunal, Kottayam. The second appeal filed by the state was dismissed 'as withdrawn' as per TA (VAT)No.243/2018 dated 12.11.2020. Consequently the dealer opted amnesty scheme 2020 and fully paid the arrear as per E-chalan No.KL018267700202021E dated 05.02.2021.(Total arrear Rs.50,420/-,p aid 20% of tax Rs.13,110/-. Balance tax Rs.37,310/-. In amnesty scheme the dealer paid Rs.14,924/-(40% of balance tax amount Rs.37,310/-).</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.18	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>18. A.R.JEWLLERS</u> <u>32041017887</u> <u>2013-14</u> <u>CTO, Mavelikkara</u></p> <p>Based on the audit objection, notice under section 25(1) issued to the assessee. In response to the notice, the assessee has remitted Rs.18,175/- (Tax Rs. 10,456/-, Interest Rs.2,719- and penalty Rs.5,000/-) as per chalan No. 228 dated 11.08.2016.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.19	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>19.NELLAMPUZHA</u> <u>JEWELLERY (32050655627)</u> <u>2013-14</u> <u>CTO, II Circle, Kottayam</u></p> <p>According to the Audit Enquiry, the assessment for the year 2013-14 was completed on 31.12.2016 with an additional demand of Tax Rs.8,774/- and Interest Rs.2,895/- vide order No.32050655627/13-14 dated 31.12.2016 and imposed penalty Rs.5,000/- vide order No. 32050655627/13-14 dated 31.12.2016. The same was collected as per chalan No.KL001020662201718M dt. 02/05/2017.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.20	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>20. DHANYA JEWELLERY</u> <u>KOZHUVANAL KOTTAYAM</u> <u>(32050982722)</u> <u>2013-14</u> <u>CTO, Pala</u></p> <p>The assessment in respect of M/s. Dhanya Jewellery for the year 2013-14 was completed under section 72 of the KVAT Act, 2003 as per order no. 32050982722/12-13 dated 30.09.2016, creating additional demand of Rs. 9,902/- towards tax and Rs.2,971/- towards interest(Total Rs.12,873/-). A penalty of Rs.5,000/- was also imposed under section 72(1) as per order No.32050982722/12-13 dated 30.09.2016.</p> <p>The assessee remitted the entire amount as follows.</p> <p>1).Rs.5,000/- as per Chalan No. KL004616741201617M dated 11.01.2017.</p> <p>2).Rs.5,000/- as per Chalan No. KL005954461201317M dated 04.03.2017.</p> <p>3).Rs.8,267/- as per Chalan No. KL002949211201718M dated 08.06.2017</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.21	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>21. VANITHA JEWELLERY</u> <u>(32051044001)</u> <u>2013-14</u> <u>CTO, Vakkom</u></p> <p>Assessment in respect of M/s.Vanitha Jewellery, under Section 72 of the KVAT Act 2003 was completed as per order no. 32051044001/13-14 dated 05.12.2016 creating an additional demand of tax Rs. 1,12,958/-, penalty Rs.5,000/- and interest Rs.37,807/-. The assessee remitted Rs.32,960/- vide chalan No. KL004590187201617 dated 10.01.2017. The appeal filed by the assessee was allowed by the assistant Commissioner(Appeals) as per KVATA No.22/17 dated 29.09.2018. Assessment modified as per order no.32051044001/2013-14 dtd. 23.03.2019 reduced the amount to Rs.1,41,148/- (Tax Rs.50,956/- and Interst Rs.90,192). The dealer has remitted Rs.10,000/-. Subsequently the dealer opted amnesty scheme 2020-21 to settle the balance amount of Rs.40,956/- and paid 40% of the tax due i.e Rs.16,383/- vide challan. KL013242619202021E dtd. 27/11/2020. Since the dealer has no arrears outstanding for the year 2013-14.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.22	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>22. IDEAL JEWEL</u> <u>COLLECTIONS 32060954226</u> <u>2013-14</u> <u>CTO, Adimali</u></p> <p>Based on the audit objection, the assessment in respect of M/s. Ideal Jewell Collections for the year 2014-15 was completed under section 25(1) of the KVAT Act 2003, as per order No. 32060954226/2014-15 dated 31.10.2016 creating additional demand of Rs. 15,734/- including penalty. The assessee remitted entire amount as per chalan no. 16 dated 23.11.2016.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.23	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>23. M/s. Bhima Gold and Gems Pvt Ltd (32061419965)</u> <u>2013-14</u> <u>CTO, Special Circle, Thodupuzha</u></p> <p>M/s. Bhima Gold and Gems Pvt Ltd opted compounding scheme U/s 8 of the KVAT Act 2003 during the year 2013-14 ie. prior to the introduction of Kerala Finance Act 2014. It is clearly mentioned in the Finance Act 2014 that “ Provided that, the tax collected by the dealer at the rate not exceeding 1.25% during the year 2013-14 shall be deemed to be validity collected”. This clearly proves that the tax collected by the dealer @ 1.25% was correct and complete. The Kerala Finance Act 2011 (the last amendment in respect of Gold compounded dealer) permitted compounded dealer to collect tax @ 1.25%. This authorization of collection of tax was as per Kerala Finance Act 2011 and same (exist) must remain as such unless the same is amended. This provisions was amended in 2014 Financial Year only. The validity of the amended provision is with effect from 01.04.2014 only. Till this the Finance Act related to the year 2011 is in force. Hence in the Finance Act 2014, it is clearly entered that “the tax collected by the dealer at the rate not exceeding 1.25% during the year 2013-14 shall be deemed to be validly collected”. In these circumstances the tax collected by the dealer was in accordance with the authorization granted in Kerala Finance Act 2011 and in accordance with law.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.24	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>24. BHIMA SILVER PALACE</u> <u>(32070321538)</u> <u>2014-15</u> <u>CTO, Special Circle II, Ernakulam</u></p> <p>The assessing authority has reported that on perusal of the provision contained in explanation 6 of section 8(f), there is no restrictions which limit the dealers other than compounding to file option under this clause and collect tax during the year 2013-14 and 2014-15. The 1st column in the table is that, the compounded tax payable for the year under the option of tax paid or payable under this clause (ie section 8(f) for the previous year/years in percentage. In order to fix the rate of percentage to collect tax the dealer has to resort to tax paid or payable under this clause for previous year/years. In column no.1 of the table the percentage is mentioned from 103 to 150. Admittedly the percentage from 103 to 125 is related to the compounded dealer with slab of 5 years, 3 years compounding. But the percentage of 135 and 150 is for the dealer who opt for compounding as per section 8(f) which is for new dealers who opts for compounding for the 1st time. They are also given facility to collect tax @ 1.35% and 1.50 and respectively. From this it is ascertained that, the dealer who opts compounding for the first time for the year 2013-14 to 2014-15 can collect tax. Hence the tax collected by the dealer is regular.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.25	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>25. ALAPATT FASHION JEWELLERY</u> <u>(32070364795)</u> <u>2013-14</u> <u>CTO, Special Circle II, Ernakulam</u></p> <p>The assessing authority has reported that on perusal of the provision contained in explanation 6 of section 8(f), there is no restrictions which limit the dealers other than compounding to file option under this clause and collect tax during the year 2013-14 and 2014-15. The 1st column in the table is that, the compounded tax payable for the year under the option of tax paid or payable under this clause (ie section 8(f) for the previous year/years in percentage. In order to fix the rate of percentage to collect tax the dealer has to resort to tax paid or payable under this clause for previous year/years. In column no.1 of the table the percentage is mentioned from 103 to 150. Admittedly the percentage from 103 to 125 is related to the compounded dealer with slab of 5 years, 3 years compounding. But the percentage of 135 and 150 is for the dealer who opt for compounding as per section 8(f) which is for new dealers who opts for compounding for the 1st time. They are also given facility to collect tax @ 1.35% and 1.50 and respectively. From this it is ascertained that, the dealer who opts compounding for the first time for the year 2013-14 to 2014-15 can collect ax. Hence the tax collected by the dealer is regular.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.26	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax</p>	<p><u>26. ARADHANA JEWELLERY</u> <u>(32071033574)</u> <u>2013-14</u> <u>CTO, I Circle, Thripunithara</u></p> <p>M/s. Aradhana Jewellery, bearing TIN 32071033574 started business on 31.03.2005 under KVAT Act 2003 dealt with gold and silver ornaments. The dealer has opted to pay compounded tax Under section 8 (f) of the KVAT Act for the first time in 2013-14. The compounding tax fixed was Rs. 14,66,980/- @ 150% of the highest tax paid Rs.9,77,987/- for the year 2012-13. The assessment was deemed to have been completed under section 21 of the KVAT Act 2003 and the dealer paid the tax accordingly.</p> <p>The audit enquiry of Accountant General party noted that as per provision to explanation 9 of Section 8(A)(I) to KVAT Act 2003, a dealer who opted for payment of compounded tax under the said section may eligible to collect tax at the rate not exceeding 1.25%. Also as per Section 30(3) no registered dealer shall collect any sum purporting to be by way of tax at the rate at which he is liable to pay. As per audited Trading Profit and Loss Account for the year ended 31/03/2014 the assessee's VAT collection was Rs.11,91,316/- conceded and compounded tax collection in the annual return is Rs.11,81,378/-. The dealer is eligible to collect tax Rs.2,97,829/- only @ 1.25% of Rs.2,38,26,319/- (Sales turnover for the year 2013-14) and as such illegal collection of tax was Rs.8,93,487/- (Rs.11,91,316 Rs.2,97,829). This should be forfeited to Government with interest under section 31(5) which works out to Rs.12,63,572/-. Hence a notice issued to the dealer under section 25(1) of the KVAT Act 2003 proposed to demand excess collected tax. The dealer replied that he had paid whole collected tax and the assessing authority has no right to assess the dealer again. The argument of the dealer</p>

effect due to illegal collection including interest and penalty worked out to 18.04 crore.

was rejected and the assessment completed by demanding excess tax collected Rs.8,93,497/- and interest Rs.3,75,265/- total Rs.12,68,752/-. The assessment order served to the dealer on 19/10/2015. 'RRC' issued for the outstanding demand of Rs.12,68,752/- on 25/11/2015 through Inspecting Assistant Commissioner, Ernakulam. The 'RRC' has been stayed as per WP(C) No. 512/2016 and paid Rs.3,80,625/- being 30% of the outstanding demand. The dealer has filed an appeal against the assessment before the Deputy Commissioner (Appeal), Ernakulam in KVATA – 2241/15.

Further verification of records revealed following:

As per Section 8(f) clause (iii) below explanation 6 of the KVAT Act as amended by the Finance Act 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below. The first column of the said table is the percentage of the tax permitted to be collected on the sale of goods covered under clause read as compounded tax payable for the year under this clause for the previous year/years in percentage from 103 to 150. According to the said provision, the dealer who are paying tax under the compounded scheme during the previous year/years alone are entitled to collect tax under this clause.

Compounded tax payable for the year under option of the tax paid or payable under this clause for the previous year/ years in percentage.

Compounded tax payable for the year under option of the tax paid or payable under this clause for the previous year/years in percentage	Percentage of tax permitted to be collected on the sale of goods covered under this clause for the year under option
103	1.03
104	1.04
105	1.05

		109	1.09
		112	1.12
		115	1.15
		120	1.20
		125	1.25
		135	1.35
		150	1.50
	<p>The dealer had opted the compounded scheme for the first time in 2013-14. Hence the notice under section 25(1) read with section '30' of the KVAT Act 2003 is served to the dealer to reopen the original assessment dated 30/08/2015 inviting his objection if any and for personal hearing. The dealer had availed the both and filed a reply. The contention raised by the dealer is beyond the law and worthless. Hence it is rejected and the assessment was finalized by demanding balance collected tax of Rs.2,97,819/- with interest of Rs.2,85,906/- totally Rs.5,83,725/-. This amount was advised for 'RRC' on 09/03/2017 to Assistant Commissioner of State Taxes, Ernakulam. Total demand under RRC is (Rs.12,68,752/- + Rs.5,83,725/-) Rs.18,52,477/-.</p> <p>As per the Appellate Order No KVATA- 2241/15, the Appellate Authority ordered to set aside the assessment for 2013-14. A second appeal TA(VAT) No.704/2017 filed by the department before the Hon'ble Appellate Tribunal against the appellate order no.KVATA-2241/15. Appeal allowed by the Hon'ble Appellate Tribunal as per order no.TA(VAT) 704/2017 dtd 21.12.2023. The dealer filed an OT revision 7/2024 against this order before the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala disposed of the OT Revision 7/2024 on 28.02.2024 as withdrawn by the dealer. At present there is no stay involved in this case. It is reported to the RR authorities accordingly.</p>		

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.27	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>27. M/s. Diamonde(TIN- 32071633018) 2013-14</u> <u>CTO, II Circle, Ernakulam</u></p> <p>M/s. Diamonde, Ernakulam (TIN- 32071633018) filed annual return for the year 2013-14 under compounding scheme for the first time and collected tax for an amount of Rs. 2,28,805/-.</p> <p>As per clause (iii) of explanation 6 of Sec. 8 (f) of the KVAT Act as amended by the Finance Act 2014, a dealer who opts for payment of tax under this clause may collect at the specified rate but where the tax so collected during the year is in excess of the tax payable for the year under this clause, provided that the tax collected by the dealers at the rate not exceeding 1.25% during the year 2013-14 shall be deemed to be validly collected.</p> <p>Hence the collection of tax being illegal, the collected tax along with interest demanded from the dealer as per assessment order 32071633018/2013-14 dated 22.10.2016 for Rs.2,99,735/- and penalty as per Order No. 32071633018/2013-14 dt. 22.10.2016 for Rs. 5,000/-. Aggrieved by the order the assessee filed appeal before the appellate authority. The Deputy Commissioner (Appeals), Ernakulam vide order in appeal No.KVATA- 1297/2017 dated 26.12.2017 directed the assessing authority to reconsider the claim of the appellant on the ground that the appellant has not collected tax exceeding 1.25% and the 1st proviso to clause (iii) Sec.8(f) provided that the tax collected by the dealers at the rate not exceeding 1.25% during the year 2013-14 shall be deemed to be validly collected.</p> <p>In the light of the appellate order the assessment was modified vide order No.312071633018/2013-14 dated 14.11.2018 of this resulting excess payment.</p>

75

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.28	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>28. Chirankandath Jewellery</u> <u>(32080216702) 2014-15</u> <u>CTO, Special Circle, Thrissur</u></p> <p>Considering the audit objection, the notice u/s.25(A) dated 19.01.2017 was already issued to the assessee. Thereafter, a notice u/s.95 of the KVAT Act dated 11.03.2022 was issued to the dealer on 11.03.2022 due to the change of incumbent of the office. On receipt of the notice, the assessee filed reply on 14.03.2022. Subsequently, after considering the reply properly, completed the assessment based on the audit objection in accordance with law as per order No.32080216702/2014-15 dated 25.03.2022 creating additional demand of Rs.75,26,708/- as tax and Rs.63,22,435/- as interest. In the above assessment order, the illegal collection of tax Rs.7,45,896.00 by the assessee had been forfeited as per sec 72 of the KVAT Act 2003. The assessee approached the Honourable High Court of Kerala. As per judgment in WP(C) 14553/2022 dated 26.04.2022, stay granted by the Honourable High Court. Against the assessment order the assessee filed appeal before the JC(Appeals) Thrissur and the appellate authority directed to modify the assessment order. The department filed second appeal against the appellate order, dated 11.10.2023.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.29	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods recovered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>29. Panthallokaran Jewellery</u> <u>(32080566644) 2013-14</u> <u>CTO, I Circle, Thrissur</u></p> <p>On receiving the notice the dealer filed reply on 03/08/2016. On verification of the reply and the annual return for the year 2013-14, it is noticed that the dealer collected tax for an amount of Rs. 33,633.54 which is less than the amount of Rs.35,524.00. This amount is less than 1.25% of declared turnover of Rs.28,41,924.00 . The section 8(f) (iii) of the KVAT Act provided that the tax collected by the dealer at the rate not exceeding 1.25 % during the year 2013-14 shall be deemed to be validly collected.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.30	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>30. Pullokarar Jewellery</u> <u>(32080811051)</u> <u>2013-14</u> <u>CTO, Chalakudy</u></p> <p>The objection pointed out by the audit team is that the assessee had effected illegal collection of tax to the tune of Rs.17,596.00 for the year 2013-14 and the same had not been paid to the Government. The assessment in respect of the above dealer for the year 2013-14 has been completed as per order dated 18.01.2019 raising a demand of Rs.27,805.00 including tax and interest. (Tax:Rs.20730.00 and interest: Rs.7075.00). The assessee paid this amount of Rs.27,805.00 as per challan No.KL005802364201617M dated 28.02.2017.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.31	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>31. Swapna Jewellery Private Limited (32081089285 / 2013-14)</u> <u>CTO, Kodungallur</u></p> <p>Assessment in respect of M/s.Swapna Jewellery Pvt. Ltd, Kodungallur was completed by including the objection pointed out in the audit vide order No. 32081089285/2013-14 dated 27.02.2017. The demand created is Rs. 4,71,665/- and Rs.1,91,753/- toward tax and interest respectively. The assessee opted amnesty scheme 2020 and paid Rs.1,88,666/- (40% of tax due) vide chalan No.K-L005669672202021E dated 04.08.2020.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.32	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>32. Anizham Jewellery</u> <u>(32081093234)</u> <u>2013-14</u> <u>CTO. Kodungallur</u></p> <p>Assessment completed as per order No. 32081093234/2013-14 dated 31.12.2016. Total demand created is Rs.49,267/- towards tax, interest and penalty. The dealer had opted amnesty scheme and paid the entire tax due Rs.33,535.00(Rs.9,860/- & Rs.23,675/-) vide chalan No.K-L005230115201617M dated 09.02.2017 and chalan No. KL011154729201819M dated 01.02.2019.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.33	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>33. Blaze Gold Jewels Private Limited(32081126826)</u> <u>2014-15</u> <u>CTO, Chavakkad</u></p> <p>As per the defect pointed out in para No.2.4.3.3 of C&AG report for the year ended 31.03.2016, the assessment in respect of M/s.Blaze Gold Jewels Pvt. Ltd; Chavakkad for the year 2014-15 was completed vide order No.32081126826/2014-15 dated 29/09/2018 demanding tax of Rs.23,71,308/- and interest of Rs.9,72,236/-. Since the assessee failed to pay the tax demand as per the order, RRC was issued to realize the arrears. Then the assessee filed appeal before the Joint Commissioner (Appeals), Thrissur and remitted 20% of the balance demand Rs.4,74,270/- Vide Challan KL008354048201819M dated 19.11.2018. As per order No. 321/18 dated 24.08.2020 of the Joint Commissioner (Appeals), Thrissur the Appellate Authority dismissed the appeal. Aggrieved by the Appellate order, the assessee filed 2nd Appeal before the Kerala Value Added Tax Appellate Tribunal,Ernakulam. The Honourable Tribunal granted conditional stay. The assessee fulfilled the conditions of stay by executing simple bond for the balance tax amount and thereby obtained stay. At present, the case is pending for decision before the Kerala Value Added Tax Appellate Tribunal, Ernakulam.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.34	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>34. Reji Raju (32081243534)</u> <u>2013-14</u> <u>CTO, Kunnamkulam</u></p> <p>Assessment in respect of Sri. Reji Raju, M/s. Sneha Fashion Jewellery, Kunnamkulam for the year 2013-14 has been completed vide order No. 32081243534/13-14 dated 30.08.2016 creating additional demand of tax Rs. 11,737/- and interest Rs.3,521/-. The dealer remitted Rs.15,258/- towards tax and interest and Rs. 5,000/- towards penalty vide chalan No.76 & 80 dated 28.11.2016.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.35	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>35. Alikkal Jewellery</u> <u>(32081394868)</u> <u>2013-14</u> <u>CTO, Wadakkancherry</u></p> <p>Assessment in respect of M/s. Alikkal Jewellery for the year 2013-14 has been completed vide order No. 32081394868/13-14 dated 31.08.2016 considering the defect pointed out by the Accountant General, by creating an additional demand of tax Rs.1,01,605/- and interest Rs.26,417/-. RRC issued to District collector as per RRC No. 017/805/08 dated 28.04.201.</p>

Para No.	Gist of the case	Present position
2.4.3.3 SL.No.36	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>36. Angel Jewellers (32081436167) 2013-14</u> <u>CTO, IV circle, Thrissur</u></p> <p>Assessment in respect of M/s. Angel Jewellers for the year 2013-14 was completed vide order No. 32081436167/2013-14 dated 31.10.2016 incorporating the irregularities pointed out by the Accountant General and created and additional demand of Rs.20,920/- along with interest Rs. 5,857/-. The dealer paid Rs. 26,777/- as per the chalan No.KL005319832016177 dated 06.02.2017.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.37	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>37. Akshaya Gold & Diamonds International Private Limited</u> <u>(32090295925)</u> <u>2013-14</u> <u>CTO, Special Circle, Palakkad</u></p> <p>The assessment in respect of M/s. Akshaya Gold & Diamonds International Private Limited for the year 2013- 14 was completed based on the audit objection, creating an additional demand of Rs.47,86,301/- towards tax and Rs.14,35,890/- towards interest. Aggrieved by this order, the assessee filed writ petition before the Hon'ble High Court of Kerala vide WP(c) No.33720/2016 and the case is still Pending.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.38	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>38. Kavitha Gold & Diamonds</u> <u>(32091049629)</u> <u>2013-14</u> <u>CTO, Ottappalam</u></p> <p>The assessment for the year 2013-14 was completed vide order no. 32091049629 dated 19.11.2016, creating demand of Rs.4,07,68,737/- towards tax and 1,22,57,453/- towards interest. The dealer filed writ petition before the honourable High Court of Kerala vide WP(C) No. 40242/2016(e) dated 19.12.2016 and is still pending.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.39	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>39. Arakkal Jewellery (32091126772) 2014-15</u> <u>CTO, Pattambi</u></p> <p>The assessment in respect of Arakkal Jewellery for the year 2014-15 was completed by creating an additional demand of Rs. 8,772/- towards tax and Rs. 1,588/- towards interest. The dealer remitted the entire amount of Rs. 10,360/- as per challan No. 117/22.11.2016, Sub Treasury, Pattambi.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.40	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>40. Dubai Gold And Diamonds</u> <u>(32091199075)</u> <u>2014-15</u> <u>CTO, Pattambi</u></p> <p>The assessment in respect of Dubai Gold and Diamonds for the year 2014-15 was completed on 29.04.2017 by creating a demand of Rs.10,41,176/- towards tax and Rs.2,60,294 towards interest and RRC was issued on 17.07.2017 to realize the arrears. Aggrieved by this, the dealer filed appeal before the Deputy Commissioner(Appeals), Palakkad. The appellate authority set aside the demand vide order number KVATA no. 544(A)2017 dated 02.11.2018. Subsequently, the department filed second appeal before the tribunal against the order of the Deputy Commissioner (Appeals), Palakkad.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.41	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>41. BLOSSOM GOLD COLLECTIONS PRIVATE LIMITED (32100210224) 2013-14</u> <u>CTO, Special Circle, Malappuram</u></p> <p>Assessment for the year 2013-14 has been completed as per the order No. 32100210224/2013-14 dated 28.02.2020 with an additional demand of Rs.36,59,776/-. A separate penalty order U/s 67(1) of the KVAT Act imposing a penalty of Rs.40,21,732/- as per the order No. 32100210224/2013-14 dated 29.02.2020 also been issued. Arrears are settled under Amnesty 2020 and paid Rs.8,04,347/- vide challan No.KL004339514202021E dated 08.07.2020.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.42	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>42. M/S.KURIKKAL GOLD</u> <u>(32100454607)</u> <u>2013-14</u> <u>CTO, Manjeri</u></p> <p>Assessment has been Completed as per Order No.32100454607/2013-14 dated 01-11-2016 and creating additional demand of Tax: Rs.1,473/- and Interest: Rs.457/-, Penalty: Rs.5,000/-. Paid Rs. 6,930/- vide Challan No. 173/16-12-2016.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.43	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>43. FIRDOUS JEWELS AND DIAMONDS PRIVATE LIMITED</u> <u>(32100496053)</u> <u>2013-14</u> <u>CTO, Manjeri</u></p> <p>Assessment Completed as per Order No.32100496053/13-14 dated, 01-11-2016 Demanding Tax: Rs.7,65,471/-, Interest: Rs. 2,37,296/-, Penalty: Rs. 5,000/-.</p> <p>Appeal allowed in favour of the dealer vide order No. KVATANo. 201/19 Dated 31-10-2019. Remission given for Rs.13,06,301 (Tax: Rs.7,65,471/-, Interest: Rs. 5,35,830/-, Penalty: Rs. 5,000/-.)</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.44	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>44. A.M.GOLD</u> <u>(32100563103)</u> <u>2013-14</u> <u>CTO, Tirur</u></p> <p>M/s. A.M. Gold was a compounded Gold dealer u/s.8(f) & filed returns in Form 10D with TIN 32100563103. Notice u/s. 25(1) on 01.09.2016 for illegal collection of VAT proposed to forfeit for the year 2013-14. Dealer received notice on 06.09.2016. Then the assessment order issued to the dealer as per order No.32100563103/13-14 dated 25.10.2016 with a demand of Rs.51,634/- & penalty of Rs.5,000/-. Dealer paid this amount vide Ch. No.K-L004557679201617M dated 07/01/2017.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.45	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>45. MANAF.K.P(PROP)</u> <u>SWARNA</u> <u>MAHAL(32100565871)</u> <u>2013-14</u> <u>CTO, Tirur</u></p> <p>Manaf K. P., Swarna Mahal, Tanur was a compounded dealer u/s.8(f) and filed returns in Form 10D having TIN No.32100565871. Notice u/s.25(1)/25A on 15.11.2016, for illegal collection of VAT proposed to forfeit for the year 2013-14. Subsequently dealer filed reply on 22.11.2016 but the contentions in the reply were over ruled and the order issued to the dealer as per Order No.32100565871/2013-14 dated 29.11.2016 with a demand Rs.28,869/- and penalty of Rs.5,000/-. Then the dealer filed appeal against this order. As per Order No. 47/2017 dated 31.12.2017 of Assistant Commissioner (Appeals), Malappuram, the assessment had modified and modified demand is Rs. 10,565/- (Tax: Rs.10,358/- and Interest: Rs. 207/-). Dealer paid this amount vide Chalan No. KL010950047201819M dated 29.01.2019 Rs.11,000/-.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.46	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>46. FIRDOUS GOLD</u> <u>CHEMMAD PRIVATE</u> <u>LIMITED</u> <u>(32100631727)</u> <u>2013-14</u> <u>CTO, Thirurangadi</u></p> <p>Notice issued on 05.11.2016. The dealer obtained interim stay against the notice from the Hon'ble High court of Kerala vide WP(C) 10890/17(I) dated 29.03.2017.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.47	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with the compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>47. KOHINOOR JEWELRY</u> <u>(32100680092)</u> <u>2013-14</u> <u>CTO, Thirurangadi</u></p> <p>The assessment for the year 2013-14 has been completed vide order No.32100680092/2013-14 dated 18.01.2017 creating an additional demand of Rs. 55,130/- (Tax), Rs.18,193 (interest) and penalty Rs.5,000/-. The dealer has completely remitted the amount. Paid Rs.20,000/- vide chalan No. KL0007013339201617M dated 29.03.2017, Rs.20,000/- vide chalan No. KL000624155201718 dated 20.04.2017, Rs.20,000/- vide chalan No. KL002087348201718 dated 20.05.2017, Rs.18,323/- vide chalan No. KL003011783201718M dated 14.06.2017.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.48	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>48. CHINNANSONS JEW-ELLERY (32100763702) 2013-14 CTO, Perinthalmanna</u></p> <p>Assessment completed as per order No. 32100763702/2013-14 Dated 29.12.2016 creating an additional demand of Rs. 1,25,944/- (Tax: Rs.90,935/-, Interest: Rs.30,009/- and Penalty: Rs.5,000/-). Stay by High Court as per order No. WP ©3494/2017(J)/ 21-07-2017. Pending before Hon'ble High Court of Kerala. But the dealer Paid Rs.196936/- (Tax: Rs.90935/-, Interest: Rs.101001/- and Penalty: Rs.5000/-) vide challan No.K-L019880770202324E dated 29-09-2023). Now no arrears outstanding against the dealer.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.49	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>49. ANASWARA GOLD</u> <u>(32100772522)</u> <u>2013-14</u> <u>CTO, Perinthalmanna</u></p> <p>Assessment completed as per vide order No. 32100772522/2013-14 Dated 29-12- 2016 creating an additional demand of Rs. 15,859/- (Tax: Rs. 8,104/-, Interest Rs. 2,755- and Penalty Rs.5,000/-). Opted Amnesty Scheme and paid Rs. 3,242/ as per chalan No. KL010960994202021E Dated 23-10-2020.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.50	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>50. ERBAD JEWELLERY</u> <u>(32100786281)</u> <u>2013-14</u> <u>CTO, Perinthalmanna</u></p> <p>The firm was compounded for a sum of Rs.1,44,790/- for the year 2013-2014 vide orer No. 32100786281/2013-2014 dated 26-8-2013. The firm started Business w.e.f. 01-04-2013 . By taking over the closing stock of defunct firm M/s. Erbad Jewellery with TIN 32100763015. The Commercial Tax Officer, Perinthalmanna issued a notice under section 25(1) of the KVAT Act 2003 to realise the illegally collected tax of Rs.114998/-. Against this notice, the dealer filed a WPC No.41038/2016(D) and stayed all further proceedings pursuant to this notice. No final order is issued in this case.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.51	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>51. PONNANI GOLD(P) LIMITED (32100864063 2013-14)</u> <u>CTO, Ponnani</u></p> <p>Notice No. 32100864063/13-14 dtd 01.09.2016 u/s25(1) of KVAT 2003 was issued to the dealer on 06.09.16. Against this the dealer filed and appeal before Hon'ble HighCourt of Kerala as per WP(C) No. 40481/2016 dtd 21.12.2016. But Hon'ble HighCourt of Kerala disposed the order without considering the defect in Audit objection. Hence a notice was issued to the dealer dated 05.08.2024 for personal hearing.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.52	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>52. PEARL GOLD MAHAL</u> <u>(32100867854)</u> <u>2013-14</u> <u>CTO, Ponnani</u></p> <p>The assessment for the year 2013-14 has been completed vide order No. 32100867854/2013-14 dated 18.03.2021 completed with an additional demand of Rs.19,360/- (Tax: Rs.11,397/- ,interest Rs.2,963/- and penalty Rs.5,000/-). The dealer opted the Amnesty Scheme 2020 and paid Rs.4,559/- as per GRN KL022043620202021E dtd 31.03.2021.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.53	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>53. EDAKKARA GOLD PRIVATE LIMITED</u> <u>(32100961173)</u> <u>2014-15</u> <u>CTO, Nilambur</u></p> <p>The assessment of M/s Edakkara Gold Pvt. Ltd bearing TIN 321009611732 for the year 2014-15 has already been completed vide Order No. 321009611732/2014-15 dated 21-11-2016. Aggrieved by this order the dealer filed WP(c) before the Hon'ble High Court of Kerala vide WP(c) No.41025/2016(c). But the judgement passed by Hon'ble High Court of Kerala is related to levy the purchase tax u/s 6(2) under compounding scheme. Hence assessing authority had requested to the JC(Law) to provide necessary legal advice vide letter dated 22.06.2024 in this matter.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.54	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>54. EMINENT JEWELAR-CADE PRIVATE LIMITED</u> <u>(32101081896)</u> <u>2013-14</u> <u>CTO, Special Circle, Malappuram</u></p> <p>Assessment for the year 2013-14 has been completed as per the order No.32101081896/2013-14 dated 26.02.2020 with an additional demand of Rs.44,56,241/- . A separate penalty order U/s 67(1) of the KVAT Act imposing a penalty of Rs.49,23,532/- as per the order No. 32101081896/2013-14 dated 27.02.2020 also been issued. Arrears are settled under Amnesty 2020 and paid Rs.9,77,422/-vide challan No. KL004319959202021E dated 08.07.2020.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.55	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>55. GITANJALI LIFE STYLE LTD (32110294217)</u> <u>2013-14</u> <u>CTO, III Circle, Kozhikode</u></p> <p>M/s. Geethanjali Life style Ltd., has compounded under section 8(f) of the KVAT Act, 2003 for the year 2013-14 and filed annual return in Form 10DA disclosing a total and taxable turnover of Rs. 2,87,14,712.47. As per clause(iii)of Explanation 6 under section 8(f) of the KVAT Act 2003, a dealer was permitted to collect tax not exceeding 1.25% during the year 2013-14 and it shall be deemed to be validly collected. Though the assessee was permitted to collect tax up to Rs. 3,58,934/-, they have collected Rs. 3,58,933/- only. Hence this collection cannot be treated as illegal collection, Since it is deemed to be validly collected as per the provisions of the Amendment in the Finance Act, 2014.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.56	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>56. GEES LAXMIDAS 916 GOLD (32110713696) 2013-14 CTO, II Circle, Kozhikode</u></p> <p>Based on the audit objection, the assessment in respect of M/s. Gees Laxmidas 916 Gold for the year 2013-14 was completed as per order No. 32110713696/2013-14 dated 02.05.2017, demanding the illegally collected tax as detailed below:</p> <p>Tax:Rs. 12,125/-, Interest:Rs.4,728/-, Penalty:Rs.5,000/-, Total:Rs.21,853/-.</p> <p>The assessee remitted Rs. 24,025/- as per cheque no. 004426 dated 28.02.2018 encashed on 29.03.2018.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.57	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>57. Akshaya Jewellers(32110729659) 2013-14 CTO, II Circle, Kozhikode</u></p> <p>Assessment completed dated 17.11.2016 with demand Rs. 615346/- and penalty Rs. 5,000/-. Appeal filed by the dealer as per VATA 2628/16 was allowed on 10.11.2017 by Deputy Commissioner(Appeals) and present demand NIL.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.58	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>58. AURELIE DESIGNER JEWELLERS</u> <u>(32110773581)</u> <u>2013-14</u> <u>CTO,II Circle, Kozhikode</u></p> <p>Based on the audit objection, assessment in respect of M/s. Auralie Designer Jewellers was completed as per order No.32110773581/13-14 dated 17.11.2016 creating additional demand of Tax Rs. 14,030/-, Interest Rs. 13,258/- and penalty Rs. 5,000/-. Aggrieved by the order, the assessee filed appeal before the Deputy Commissioner(Appeals). The Appellate Authority as per VATA 2630/16 dismissed the appeal. RRC issued vide RRC No. 19/17-18. The dealer opted the Amnesty Scheme 2019 and entire amount settled.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.59	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>59. MAHALAKSHMI GOLD (32110830707) 2013-14 CTO, II Circle, Kozhikode</u></p> <p>M/s. Mahalakshmi Gold, has compounded under section 8 of the KVAT Act, 2003 for the year 2013-14 and filed annual return in Form 10DA disclosing a total and taxable turnover of Rs. 24,73,912/-. As per clause(iii) of Explanation 6 under section 8(f) of the KVAT Act 2003, as amended by Finance Act, 2004, a dealer was permitted to collect tax not exceeding 1.25% during the year 2013-14 and it shall be deemed to be validly collected. Though the assessee was permitted to collect tax up to Rs. 31,064/-, they have collected Rs. 24,697/- only. Hence this collection cannot be treated as illegal since it is deemed to be validly collected as per the provisions of the Amendment in the Finance Act, 2014.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.60	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>60. SKY GOLD WHOLESALE & MANUFACTURING DIVISION (32110841891) 2013-14 CTO, II Circle, Kozhikode</u></p> <p>M/s. Sky Gold Wholesale & Manufacturing Division, has compounded under section 8 of the KVAT Act, 2003 for the year 2013-14 and filed annual return in Form 10DA disclosing a total and taxable turnover of Rs. 24,85,123.90/-. As per clause(iii) of Explanation 6 under section 8(f) of the KVAT Act 2003, as amended by Finance Act, 2004, a dealer was permitted to collect tax not exceeding 1.25% during the year 2013-14 and it shall be deemed to be validly collected. Though the assessee was permitted to collect tax up to Rs. 31,064/-, they have collected Rs. 2,104.79/- only. Hence this collection cannot be treated as illegal since it is deemed to be validly collected as per the provisions of the Amendment in the Finance Act, 2014.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.61	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>61. NEETUKATTIL GOLD DESIGNERS</u> <u>CALICUT(32110860521)</u> <u>2013-14</u> <u>CTO, III Circle, Kozhikode</u></p> <p>M/s. Neetukattil Gold Designers, has compounded under section 8 of the KVAT Act, 2003 for the year 2013-14 and filed annual return in Form 10DA disclosing a total and taxable turnover of Rs.17,54,441.47-. As per clause(iii) of Explanation 6 under section 8(f) of the KVAT Act 2003, as amended by Finance Act, 2004, a dealer was permitted to collect tax not exceeding 1.25% during the year 2013-14 and it shall be deemed to be validly collected. Though the assessee was permitted to collect tax up to Rs. 21,931/-, they have collected Rs. 17,579/- only. Hence this collection cannot be treated as illegal since it is deemed to be validly collected as per the provisions of the Amendment in the Finance Act, 2014.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.62	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>62. THASLEENA JEWELLERY (32110899175) 2013-14 CTO, Third Circle, Kozhikode</u></p> <p>Smt. Jameela, has compounded under section 8 of the KVAT Act, 2003 for the year 2013-14 and filed annual return in Form 10DA disclosing a total and taxable turnover of Rs.15,14,131/-. As per clause(iii) of Explanation 6 under section 8(f) of the KVAT Act 2003, as amended by Finance Act, 2004, a dealer was permitted to collect tax not exceeding 1.25% during the year 2013-14 and it shall be deemed to be validly collected. Though the assessee was permitted to collect tax up to Rs. 18,927/-, they have collected Rs. 15,195/- only. Hence this collection cannot be treated as illegal since it is deemed to be validly collected as per the provisions of the Amendment in the Finance Act, 2014.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.63	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>63. EMAS GOLD, DIAMONDS LLP (32110899489) 2014-15 CTO, III Circle, Kozhikode</u></p> <p>M/s. Emas Gold, has compounded under section 8 of the KVAT Act, 2003 for the year 2013-14 and filed annual return in Form 10DA disclosing a total and taxable turnover of Rs.6,00,53,102.40. As per clause(iii) of Explanation 6 under section 8(f) of the KVAT Act 2003, as amended by Finance Act, 2004, a dealer was permitted to collect tax not exceeding 1.25% during the year 2013-14 and it shall be deemed to be validly collected. Though the assessee was permitted to collect tax up to Rs.7,50,663.78, they have collected Rs.5,40,604/- only. Hence this collection cannot be treated as illegal since it is deemed to be validly collected as per the provisions of the Amendment in the Finance Act, 2014.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.64	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>64. M/s. Archana Jewellery</u> <u>(32110916624)</u> <u>2013-14</u> <u>CTO, IV Circle, Kozhikode</u></p> <p>M/s. Archana Jewellery, Koyilandy is a registered dealer on the rolls of IV circle, Kozhikode bearing TIN32110916624 under KVAT Act. The dealer was permitted to compound at first time in 2013-14 and paid tax under section 8(f) of KVAT Act 2003.</p> <p>The dealer has filed monthly return and annual returns in Form 10DA for the year 2013-14. On verification of the return and annual return 2013-14 it is revealed that the dealer has collected tax from the customers amounting to Rs.42,088/-. It is clear that the dealer who opt compounding for the first time in 2013-14 are not entitled to collect tax. As M/s. Archana Jewellery opted compounding scheme for the first time in 2013-14 they are not entitled to collect tax. Notice under section 72 was issued on the dealer in this case and they have filed writ petition before Hon'ble High Court of Kerala and as per the WP(C) No. 39221/2016(1) dated 09.12.2016-further action stayed.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.65	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>65. Rolex Jewellery</u> <u>(32110991032)</u> <u>2013-14</u> <u>CTO, IV Circle, Kozhikode</u></p> <p>M/s. Rolex Jewellery, Thamarassery, Kozhikode, a dealer on the rolls of IV Circle, Kozhikode bearing TIN32110991032, had opted for compounding for the first time in 2013-14. As per clause (iii) to explanation 6 of 8(f), the dealer was not eligible to collect tax, as he was not paying tax under the compounding scheme during the previous year. When this was pointed out in the C&AG report, the amount of Rs.10,030.00 collected illegally was ordered to be forfeited to government as per order date 21.11.2016. Penalty of Rs.5,000.00 was also imposed as per separate order. The dealer paid Rs. 5,000.00 towards the penalty imposed, as per Chalan No. KL005823235201617M dated 01.03.2017. Rs.4,000/- was paid towards the tax demanded.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.66	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>66. M/s. Isha Gold Ornaments</u> <u>(32111169074)</u> <u>2013-14</u> <u>CTO, Quilandy</u></p> <p>On verification of the audit report filed by the dealer it was found that compounded tax collected as per audited statement and annual return filed has a difference of Rs. 1,07,321/- and this was assessed as per order No. 321111 69074/2013-14 dated 03-05-2018 creating an additional demand of Rs. 1,07,321 (VAT) and Rs. 1,57,762/- (Int). Against the modified order dtd. 03-05-2018, the dealer again filed appeal before Assistant Commissioner (Appeals) Kozhikode. The Assistant Commissioner(Appeals) Kozhikode as per VATA 732/18 dated 20-12-2019 directed to modify the assessment. As per the direction contained in the appellate order, assessment order dated 03-05-2018 was revised as per order number 32111169074/13-14 dated 25/08/2020 and the demand existing against the dealer is VAT Rs. 4,92,378/-Interest Rs. 2,82,025/-. The above demand is now under RR as per RR number RR/2017/123/11. Meanwhile, against the order of first appellate authority the state has filed second appeal before the Honourable appellate tribunal additional bench kozhikode. The Honourable appellate tribunal dismissed the second appeal directing the assessing authority to issue modified order in compliance of the direction in first appellate order which was already complied as above.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.67	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>67. DIYA GOLD PALACE</u> <u>JEWELLERS</u> <u>(32111313265)</u> <u>2014-15</u> <u>CTO, Perambra</u></p> <p>Based on the audit objection, the assessment in respect of M/s. Divya Gold Palace Jewellers for the year 2014-15 was completed as per order no.32111313265/14-15 dated 01.11.2016 demanding Tax Rs. 83,598/- and Interest Rs. 15,584/-. An amount of Rs. 5,000/- was also imposed upon the assessee as penalty as per order no. 32111313265/14-15 dated 02.11.2016. The assessee remitted Rs. 1,17,000/- vide cheque No.449012 dated 13.04.2018 as detailed below: Tax: Rs.83,598/-, Interest: Rs. 28,402/-, Penalty : Rs. 5,000/- , Total : Rs. 1,17,000/-.</p> <p>The same was encashed as per chalan No. 452279201819M dated 18.04.2018.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.68	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>68. PALLITHARA JEWELLERS</u> <u>(3212021585)</u> <u>2013-14</u> <u>CTO, Taliparamba</u></p> <p>Assessment completed vide order No.32120215852 /2013-14 dtd. 20.12.2017 for non forfeiture of Illegal collection of tax amounting to Rs. 1,92,386/- with interest of Rs. 86574/- along with penalty Rs.5000/-. The amount has been advised for RR vide Requisition No.05/G/2018-19 dtd. 28.04.2018 to the Inspecting Assistant Commissioner, SGSTD, Kannur. Meanwhile the dealer has paid Rs.38,500/- on 17.05.2018 through RR and filed appeal before the Assistant Commissioner (Appeals), Kannur. The Appellate authority has allowed the appeal as per VATA 96/2018 & 213/2018 dtd. 10.06.2019. Against the appellate order, the State of Kerala has filed second appeal as per TA (VAT) 614/2019 (penalty) which was dismissed vide order dated 26.02.2021. The second appeal filed by the State on tax assessment vide TA (VAT) 615/2019 is still pending with Tribunal.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.69	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>69. M/S. AMBIKA JEWELLERY</u> <u>(32120277254)</u> <u>2014-15</u> <u>CTO, II Circle, Kannur</u></p> <p>The assessment was completed as per order No.32120277254/2014-15 Dated 29.11.2016. Tax – Rs.1,75,902/-, Interest - Rs. 25,891/-, Penalty - Rs. 5,000/-. The dealer has already forfeited the collected tax of Rs. 23,598/-for the Year 2014-15. Balance - Rs. 1,52,304/-. Paid 20% of the tax and interest Rs. 35,639/- (as per chalan No. 173 dated 06.01.2017) and 20% of penalty Rs. 1,000/- (as per chalan No.171 dated 06.01.2017). The dealer opted Amnesty Scheme 2019 and paid balance amount in 6 installments, details are below:</p> <ol style="list-style-type: none"> 1. Challan No. KL004072010 dtd 26.06.2019 -19444.00, 2. Challan No. KL004904071920 dtd 18.07.2019 -19444, 3. Challan No. KL006437991920 dtd 16.08.2019 -19444.00, 4. Challan No. KL0074603951920 dtd 23.09.2019 -19444.00, 5. Challan No. KL00907641920 dtd 24.10.2019 -19444.00, 6. Challan No. KL010636966201920 dtd 22.11.2019 -19444.00

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.70	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>70. CHENNATTU JEW-ELLERY (32120421952)</u> <u>2014-15</u> <u>CTO, Taliparamba</u></p> <p>Assessment completed as per this office Order No.32120421952/2014-15 dtd. 19.11.2016 demanding additional compounding tax Rs.1,51,664/- and interest Rs.30,333/- along with penalty of Rs.5,000/-. The demand has been advised for collection under RR and remitted 20% Rs.30,333/- vide chalan No.5713512 dtd. 08.09.2017. The dealer opted Amnesty Scheme 2020 and settled the entire arrear amount (50% of tax amount Rs.121331/-).The payment details are given below:</p> <p>1).Rs.15166.50/-(Challan total Rs.38487/-) KL008046021202021E dtd. 15.09.2020</p> <p>2).Rs.15166.50/-(Challan total Rs.38487/-) KL011316781202021E dtd. 08.10.2020</p> <p>3).Rs.15166.50/-(Challan total Rs.38487/-) KL0139240540202021E dtd. 05.10.2020</p> <p>4).Rs.15166.50/-(Challan total Rs.76974/-) KL016289328202021E dtd. 06.01.2021 Rs.60666/-</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.71	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>71. RUBBY JEWELLERY</u> <u>(32120455015)</u> <u>2013-14</u> <u>CTO, Taliparamba</u></p> <p>Assessment completed as per this of- fice order No. 32120455015/2013-14 dtd. 19.12.2016 creating additional demand Rs.2,29,083/- (Tax- Rs.181812+Interest Rs.47271). The dealer opted Amnesty Scheme 2019, paid Rs.1,67,262/- and settled the arrears as detailed below:</p> <p><u>Collection</u></p> <p>1) Rs.36362/- : Rt.No.50399 dtd. 31.10.2017.</p> <p>2)Rs.24240/- :KL009149562201920 M/ 25.10.2019</p> <p>3)Rs.24240/- :KL010903447201920 M/ 27.11.2019</p> <p>4)Rs.24240/-: KL012304023201920M/ 28.12.2019</p> <p>5)Rs.24240/-:KL013837246201920 M/ 22.01.2020</p> <p>6)Rs.24240/-:KL0153990702019- 20M/ 27.02.2020</p> <p>The dealer opted Amnesty Scheme 2020 and paid 40% of balance tax due Rs.24250/-.</p> <p>Rs.9700/- : KL005081994202021/ 21.07.2020</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.72	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>72. RAJADHANI GOLD</u> <u>(32120468256)</u> <u>2013-14</u> <u>CTO, Taliparamba</u></p> <p>Based on the audit enquiry regarding non forfeiture of illegally collected tax, a notice u/s. 25(A) was served to the dealer forfeiture of illegally collected tax of Rs. 336159/- along with interest of Rs. 87401/-. Aggrieved by this notice the dealer has approached the Hon'ble High Court of Kerala. As per order in WP(C) 40690/16 dtd. 21.12.2016 the Hon'ble High Court of Kerala has stayed all proceedings in respect of the notice 32120468256/13-14 dtd. 22.09.2016. The above WP(C) is pending for orders before the HC.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.73	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>73. PALLITHARA JEWELLERS (32120566784) 2013-14 CTO, Taliparamba</u></p> <p>Pre-assessment notice No. 32120566784/2013-14 dated 18.01.2016 u/s.25(1) of the KVAT Act 2003 was stayed by the Hon'ble High court as per Order WP(C) No. 8773/16 (b) dtd: 16.03.2016. The case is still pending.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.74	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>74. M/S.PURE GOLD</u> <u>(32120687092)</u> <u>2013-14</u> <u>CTO, II Circle, Kannur</u></p> <p>Illegally collected tax Rs. 9,902/- forfeited as per chalan No. 157 dated 14.01.2016. Rs. 8,912/- towards interest and Rs. 5,000/- towards penalty also remitted as per chalan No. 75 dated 24.11.2016.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.75	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>75. MUSCAT JEW-ELLERY (32121006322) 2013-14 CTO, Kuthuparamba</u></p> <p>Assessment for the year 2013-14 completed as per order No. 32121006322/2013-14 dated. 27.01.2017. Additional demand created ₹ 2,28,912.00 (Tax ₹ 1,72,114/- + Interest ₹ 56,798/-). Aggrieved by this, the dealer filed appeal before the Assistant Commissioner (Appeal), SGSTD, Kannur and the appellate authority vide VATA No. 812/2017 dated. 18.05.2019 allowed the appeal.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.76	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>76. PRAKASH GOLD</u> <u>(32121008763)</u> <u>2014-15</u> <u>CTO, Kuthuparamba</u></p> <p>Assessment for the year 2014-15 completed as per order No. 32121008763/2014-15 dated. 30.12.2016 and additional demand created ₹ 4,46,902/- (Tax ₹ 3,89,918/- + Interest ₹ 77,984/-). Dealer opted amnesty scheme 2020 and paid ₹1,55,168/- as per chalan No. KL013301351202021E dated. 27.11.2020.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.77	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>77. SKY GOLD KUTHU-PARAMBA (32121016233)</u> <u>2013-14</u> <u>CTO, Kuthuparamba</u></p> <p>Assessment for the year 2013-14 completed as per order No. 32121016233/2013-14 dated. 10.06.2020 demand created ₹ 29,26,031/- (illegal collection of tax ₹ 1,86,879/- + reversal of tax ₹14,94,748/-, interest ₹ 12,44,404/-). Dealer opted Amnesty scheme and paid ₹6,72,651/- (40% ₹ (1,86,879 + ₹14,94,748/-) as per Chalan No. KL206697202021E dated. 29.12.2020.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.78	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>78. MEMANA JEW-ELLERY(32121017987) 2013-14 CTO, Kuthuparamba</u></p> <p>Assessment completed as per order No.32121017987/2013-14 dated. 20.01.2017 and additional demand created 10,603/- (₹ Tax ₹ 7,913/- + Interest ₹2,690/-). Entire amount collected as per Chalan No. KL005200197201617M dated. 10.02.2017.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.79	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>79. PARAMPUZHAYIL JEWELLERS</u> <u>(32121036077)</u> <u>2014-15</u> <u>CTO, Special Circle, Kannur</u></p> <p>The defect is sustainable and the assessment u/s. 25(1) has been completed as per order No. 321201036077/14-15 dated 30.9.2016. Additional demand created for Rs.5.83 lakhs .(Rs. 498121(tax) + Rs. 84381(int.)). Interim stay granted by Hon' High Court as per WP(C) No. 38697/2016 dtd 7.12.2016 still pending before High Court .</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.80	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>80. SKY GOLD (32122208755)</u> <u>2013-14</u> <u>CTO, Payyannur</u></p> <p>Assessment completed as per order No. 32122208755/13-14 dated.17.01.2017 determining tax due Rs. 76881/- interest Rs. 19989/- and penalty Rs. 5000/-. Entire amount collected under RRC.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.81	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>81.MAYA UTHAMKADAM,</u> <u>SONA GOLD</u> <u>(32122212772)</u> <u>2013-14</u> <u>CTO, Payyannur</u></p> <p>As per clause explanation 6 of KVAT Act 2003 dealers who are compounding for the first time are not entitled to collect tax.</p> <p>During the year 2013-14 M/s. Sona Gold TIN: 32122212772) has collected compounded tax of Rs.125412/- even though they were not entitled to collect tax Rs.2176/- The illegal collection of compounded tax for Rs.2176/- by M/s. Sona Gold has fully paid by the dealer along with interest and penalty as detailed below. Compounded tax Rs.2176/- interest Rs.566/- and penalty Rs.5000/- as per chalan no.92 dt. 07.11.2016.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.82	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>82. ATLAS GOLD MAHAL</u> <u>(32122295515)</u> <u>2013-14</u> <u>CTO, Payyannur</u></p> <p>Assessment completed as per order No. 32122295515/13-14 dated.04.01.2017 determining tax due Rs. 758801/- interest Rs. 242819/- and penalty Rs. 5000/-. The assessee has remitted Rs. 151760/- towards tax as per Ch No.87 dated. 23.09.2017, Rs. 200000/- as per Ch No. KL015407114201920M/ 29.02.2020, Rs. 200000/- as per Ch No. KL012421393201920M/ 02.01.2020 and Rs. 82817 as per Ch No. KL003589454202021E/ 27.06.20 under Amnesty Scheme.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.83	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>83. Bindu Jewellery(32130236272) 2014-15</u> <u>CTO, Special Circle, Kasar-gode</u></p> <p>Assessment completed as per the Order No. 32130236272/ 2014-15 dated 13.06.2018 and creating an additional demand of Rs. 99,107/- as Tax and Rs. 1,15,955/- as interest. The demand has been adjusted from the excess amount paid for the year 2007 – 08.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.84	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>84. SULTHAN GOLD CLASSIC PRIVATE LIMITED 32130262405 2013-14</u> <u>CTO, Special Circle, Kasargode</u></p> <p>As per section 8f(iii), a dealer who opts for payment of tax under this clause may collect tax at the rate as specified in the table, but where the tax so collected during the year is in excess of the tax payable for the year under this clause, the tax collected in excess shall be paid over to Government in addition to the tax payable under this clause. Provided that the tax collected by dealers at the rate not exceeding 1.25% during the year 2013-14 shall be deemed to be validly collected. In the case of M/s. Sulttan Gold Classic Pvt. Ltd, the dispute is related to the assessment year 2013-14. The assessee has disclosed a total turnover of Rs. 448115112/- for the year 2013-14. Permission was granted to the assessee to collect tax upto Rs. 5601440/-. The assessee had collected only Rs. 4062223.94. According to provision, tax collected by dealers at the rate not exceeding 1.25% during the year 2013-14 shall be deemed to be validly collected. Hence there is no illegal collection by the assessee as far as the assessment year 2013-14 is concerned.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.85	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>85. Navarathna Jewellery(32130501884)</u> <u>2013-14</u> <u>CTO, Kasargode</u></p> <p>The Accountant General pointed out that short levy on account of non fixing liability on tax on purchase U/s 6 (2) of KVAT Act 2013-14 & 2014-15 in gold, dealers who have opted to pay tax at compounded rate 8(f)(1). Pursuant to raising audit note a notice U/s 25(1) of the KVAT Act 2003 and penalty U/s 67(1) were issued to the dealer. In response to the notice the dealer mentioned the writ petition filed before the Hon'ble High Court of Kerala and obtained stay against proceedings further with the notices. Mean while the Kerala finance Act 2017 section 6(1)(b) inserted the following proviso section 6(2) of the KVAT Act 2013. "Provided that not with standing any thing contained in clause (f)section 8. A dealer paying compounded tax for the goods mentioned in the clause shall not liable to pay tax under this sub section on such goods with effect from 1st April 2013". Since the insertion of this provision taken retrospective effect from 01.04.2013.The Honble High Court of Kerala has allowed all the writ petition of like nature of all over the state in common Judgement date 18.07.2017 quashing all impugned orders and notices. As the insertion of relevant provision by Kerala Finance Act 2017 has exhaustively exonerate all the dealer pointed out in the audit from the liability to tax U/s.6(2).</p>

133

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.86	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>86. RANJEES GOLD PALACE 32130605384 2013-14 CTO, Hosdurg</u></p> <p>Based on the audit objection, assessment in respect of M/s. Ranjees Gold Palace for the year 2013-14 was completed as per order No. 32130605384/13-14 dated 28.12.2016 creating additional demand of Rs. 0.29 lakhs. Aggrieved by the order, the assessee filed appeal before the Assistant Commissioner (Appeals). The Appellate Authority as per Order No. VATA 30/2017 dated 08.03.2017 allowed the appeal. Remission was given to the amount demanded.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.87	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>87. MINAR GOLD PRIVATE LTD (32130646931) 2013-14 CTO, Hosdurg</u></p> <p>Based on the audit objection, assessment in respect of M/s. Minar Gold Pvt Ltd for the year 2013-14 was completed as per order no. 32130646931/13-14 dated 17.11.2016 creating additional demand of Rs. 96.32 lakhs. Aggrieved by the order, the assessee filed Writ Petition before the Honourable High Court of Kerala. The case is still pending before the Honourable High Court vide WP(C) No. 41008/2016.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.88	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>88. Anupama Jewellery</u> <u>(32140457987)</u> <u>2013-14</u> <u>CTO, Vythiri, Kalpetta</u></p> <p>Assessment completed. Collected compounded tax for the year 2013-14, the assessment completed as on 17-08-2016 as per order No. 32140457987/13-14 and collected tax Rs.13,765/- , interest Rs.11,563/- and penalty Rs.5,000/-, Total Rs.30328/-. Fully paid as per chalan No. 1466 dated 1-09-2016.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.89	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>89. Riches Jewel Arcade</u> <u>(32140465165)</u> <u>2014-15</u> <u>CTO Vythiri, Kalpetta</u></p> <p>In this case the audit objection raised against the dealer is non sustainable on the following ground.</p> <p>The contention that the dealer cannot collect tax U/s.8(f) of the KVAT Act 2003 that they being the compounded dealer first time for the year 2013-14 is a wrong interpretation of the Act. There are two provisions for payment of compounded tax U/s.8(f) of the Act. The first one is U/s.8(f)(i)(a),(b),(c),(d) of the KVAT Act 2003, which is applicable for the payment of compounded tax for the first time.</p> <p>The second provision for the payment of compounded tax is as per such clause(vii) of the Sec 8(f) and such clause(iii) of explanation 6 of the KVAT Act is applicable to all dealer, whether first time compounded or repeatedly compounded.</p> <p>Further, it has also been stated in the provision that if there is excess collection that what has been proved therein, then the excess collected tax also should be paid. Sec 8(f) of the KVAT Act 2003 read as follows:</p> <p><i>“(iii) a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below. But where the tax so collected during the year is in excess of any tax payable for the year under this clause, the tax col-</i></p>

		<p>lected in excess should be paid over to Government in addition to the tax payable under this clause.</p> <p><i>Provided that the tax collected by the dealer at the rate of exceeding 1.25% during the year 2013-14 shall be deemed to be validly collected."</i></p> <p><i>However a pre-assessment notice U/s.25(A) of the KVAT Act 2003 has been issued to the dealer to recover the tax of collected.</i></p>
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Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.90	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>90. PARCOS SWARNANJALI</u> <u>GOLD (32140541248)</u> <u>2014-15</u> <u>AIT & CTO, Mananthavady</u></p> <p>Assessment was completed as per the order No. 32140541248/2014-15 dated 30.12.2017 with additional demand of Rs. 4,97,668/- (Tax: 3,70,427/-, Interest: 1,22,241/- and Penalty: Rs. 5,000/-). As per Order No. VATA 43/2020 dated 30.11.2020 DC(Appeals), Wayanad directed to modify the assessment. The assessment was modified as per the order No. 32140541248/2014-15 dated 03.03.2021 with creating the additional demand of Rs. 6,66,933/- (Tax: 3,87,752/- and Interest: Rs. 2,79,181/-). The arrear is under RR with revenue authority.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.91	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>91. M/S.CITY GOLD</u> <u>(32140591885)</u> <u>2013-14</u> <u>AIT & CSTO Mananthavady</u></p> <p>Assessment was completed as per the order No. 32140591885/2013-14 dated 30.11.2016 with additional demand of Rs. 85,621/- (Tax: Rs. 63,985/-, Interest: Rs. 16,636/- and Penalty Rs. 5,000/-). The assessee opted Amnesty 2020 and paid 40% of Tax Rs. 25,594/- through online payment dated 25.11.2020.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.92	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year. As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year. Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>92. Bhima Jewellers (32140738449)</u> <u>2013-14</u> <u>IAC, Wayanad</u></p> <p>Assessment completed as per Order No. 32140738449/2013-14 dated. 22.04.2016 creating additional demand with interest Rs.12,67,995/-. This order was modified as per Tribunal Order TA(VAT)304/2016, 305/2016, 306/2016 and 307/2016 dated 27.08.2020 created additional demand with interest Rs.1,50,871/-.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.93	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p>93. Unity Jewel Arcade Pvt.Ltd. (32150804376) 2013-14 CTO, Special Circle, Mat-tancherry</p> <p>In the light of defect pointed out in the C&AG Report, assessment was completed on 31.08.2016 & illegally collected tax of Rs.54,93,379.00 was forfeited with interest Rs.47,79,240/- and Penalty Rs.5,000/-. The collection of this amount is under stay vide WP(C) No.33752/2016 dated 21.10.2016 of Honourable High Court of Kerala.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.94	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>94. Thomson Jewellery (32150839263)</u> <u>2013-14</u> <u>CTO. Angamally</u></p> <p>M/s Thomson Jewellery is an assessee on the rolls of State Tax Officer, Angamaly. In the light of audit objection the assessing authority issued notice u/s 25(1) to the dealer and they filed writ petition against the pre-assessment notice. The Hon'ble High Court of Kerala disposed the petition vide WP(C) No. 3715/2017 by connecting to WP(C) No. 995 of 2017 which was disposed as follows: "Kerala Finance Act 2017, was enacted w.e.f. 01.04.2017. Through the said Act, Section 6(2) of the KVAT Act was amended by inserting the following proviso to Section 6(2)(a), namely, "<i>provided that notwithstanding anything contained in clause (f) of Section 8, a dealer paying compounded tax for the goods mentioned in that clause, shall not be liable to pay tax under this sub section on such goods with effect from 1st April, 2013.</i>"</p> <p>The amendment aforementioned has the effect of clarifying that, dealers paying tax on compounded basis under Section 8(f), need not pay tax under Section 6(2) of the KVAT Act, on the goods in question, with effect from 01.01.2013. In view of the amendment with effect from 01.04.2013, these writ petitions are allowed, by quashing the impugned notices that propose as assessment to purchase tax."</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.95	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>95. M/s Maliekal Jewellery</u> <u>(32150969594)</u> <u>2014-15</u> <u>CTO, Special Circle, Mat-tancherry</u></p> <p>In the light of defect pointed out in the C&AG Report, assessment was completed by the assessing authority on 27.09.2016 & created additional demand for Rs 13,12,552/-(Tax), Rs 10,23,791/-(Interest) and and Rs 5,000/-(Penalty). Now the dealer opted Amnesty Scheme 2020-21 to pay the arrears and remitted 40% of tax due amounting to Rs. 5,25,021/- vide e-chalan No. KL005048806202021E dtd. 21.07.2020. Since the amount of interest and penalty has been waived, there is no arrears are outstanding against the dealer.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.96	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>96. Ayyappas 916 Gold (32150973846)</u> <u>2013-14</u> <u>ATO, Noth Paravur</u></p> <p>The Accountant General pointed out that the dealer had collected an amount of Rs.24,537/- as tax irregularly and it was also directed to forfeit the irregularly collected tax with penal interest and penalty. Subsequently the assessing authority had issued notice dated 30.07.2016 to the dealer demanding to remit the illegally collected tax with penal interest and penalty. In the reply filed, it was stated that they had applied for compounding scheme for payment of tax during the financial year 2013-14 in the right time. It was also stated that as a gold dealer opted for compounding scheme they are permitted to collect tax @ 1.25% on their sales. Concluding the reply the dealer had pointed out that they had remitted an excess amount of Rs.3,183/- as tax during the financial year 2013-14. The assessee opted to pay tax at compounding rate through on-line for the year 2013-14 and subsequently permission has been granted. In the meantime dealer paid tax on the actual sales effected for the months for April 2013 to August 2013 as per return in Form 10. Thereafter the assessee filed returns in Form 10DA for the entire financial year and also paid differential tax for the months of April 2013 to August 2013 along with interest. On analysis it is found that the total compounding tax due for the year was Rs. 42,264/-. But the assessee paid Rs. 45,447/- including collected tax. Therefore there is no loss or revenue incurred in this case.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.97	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>97. M/s Sumangaly Jewellery(32151430462) 2013-14 CTO, II Circle, Perumbavoor</u></p> <p>M/s Sumangaly Jewellery is an assessee on the rolls of STO, 2 nd Circle, Perumbavoor. In accordance with the audit objection the assessing authority verified the objection and found that the assessee wrongly entered the same figure in columns compounded tax due for the month, and 'compounded tax collected for the month. No illegal collection of tax detected.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.98	<p>As per Clause (iii) below Explanation 6 of Section 8(f)(i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>98. M/s.K K Anthru Fashion Jewellery(32151430462) 2013-14 CTO, Muvattupuzha</u></p> <p>Based on the objection, the assessing authority completed the assessment vide order No.32151430462/13-14 dtd. 31.08.2016 and an additional demand of Rs.83,505.00 (Tax Rs.66,274/-,Interest Rs.17,231/-) was created. The demand was advised for RR through the Deputy Commissioner, Muvattupuzha. The dealer filed appeal before the Deputy Commissioner (Appeals)-V Ernakulam. The Deputy Commissioner (Appeals)-V, Ernakulam vide order No. KVATA 3834/16 (2013-14) allowed the appeal stating that during the year 2013-14, the appellant collected only an amount of Rs. 66,274/- and paid Rs. 2,35,824/- (Rs. 19,652 x 12) to the government under compounding scheme, and therefore, there is no excess collection or illegal collection of tax on the part of the appellant. The dealer filed another appeal against the order of the assessing authority on imposing penalty of Rs. 5,000/- for the offence of illegal collection of tax for the year 2013-14 amounting to Rs. 66,274/-, which was dismissed by the Deputy Commissioner (Appeals)-I, Ernakulam vide KVATA 876 (A)/17 (2013-14) dated 10.07.2018. The dealer remitted the penalty amount vide chalan Nos. KL005426058201617M dated 16.02.2017 and KL008034761201819M dated 09.11.2018.</p>

Para No.	Gist of the case	Present position
2.4.3.3 Sl.No.99	<p>As per Clause (iii) below Explanation 6 of Section 8(f) (i) of the KVAT Act, 2003, as amended by Finance Act, 2014 a dealer who opts for payment of tax under this clause may collect tax at the rate as shown in the table below the clause. As per the table, the tax permitted to be collected on the sale of goods covered under this clause for the year under option is 1.03 to 1.5 per cent of the compounded tax paid during previous year.</p> <p>As per the above provision dealers who are paying tax under the compounding scheme during the previous year/years alone are entitled to collect tax under this clause. On a perusal of column 1 and 2 of the table which represent compounded rate along with compounded status of the dealer and percentage of tax to be collected, it was clear that dealers who are compounding for the first time are not entitled to collect tax unless the first column contains a specific mention about tax paid under Section 6 during previous year.</p> <p>Audit checked the records of the compounded dealers in 63 assessment circles in 15 tax districts and observed that 99 dealers collected compounded tax during 2013-14 and 2014-15 even though they were not entitled to do so. Illegal collection of tax needs to be forfeited as per Section 72 of KVAT Act. The tax effect due to illegal collection including interest and penalty worked out to 18.04 crore.</p>	<p><u>99. M/s. Naveen Jewellery</u> <u>(32151443062)</u> <u>2013-14</u> <u>CTO, Muvattupuzha</u></p> <p>Based on the audit objection the assessment was completed as per the order no. 32151443062/2013-14 dated 22.09.2016 creating additional demand of Rs. 33,095/- as Tax and Rs. 8,605/- as interest. The dealer paid arrear amount fully as shown below.</p> <p>1). Rs.25,000/- as per chalan No. KL000977522201819 dated 02.05.2018.</p> <p>2). Rs.25,300/- as per chalan No. KL002248432201819 dated 01.06.2018</p>

Para 2.4.3.4(Bullet 1)

Para No.	Gist of the case	Present position
2.4.3.4(1) Sl.No.1	Audit collected the data of import of gold, diamond and platinum into the Country by the dealers from the Director General of Systems and Management, Central Excise and Customs, New Delhi and cross checked the import details furnished by the dealers and found that six dealers in four assessment circles had imported gold, diamond and platinum amounting to 4,191.16 crore against which 496.69 crore only was conceded. The suppression of import purchase worked out to 3,694.46 crore and the resultant short levy of tax, interest and penalty worked out to 126.70 crore.	<p> <u>1. Malabar Gold Ornaments Makers (P) Ltd</u> <u>(32110234942)</u> <u>2014-15</u> <u>CTO, Special Circle - I, Kozhikode</u> </p> <p> Assessment completed including audit objection on 11.04.2022. Additional demand tax Rs.3,12,52,111/-, interest Rs. 2,65,64,294/-. Total Rs.5,78,16,405/-. RRC issued. 20% remitted auto stay. As per Interim Order of Hon'ble High Court in WPC- 5422 /2022, the case is under Stay till further Orders. </p>

Para No.	Gist of the case	Present position
2.4.3.4(1) Sl.No.2	<p>Audit collected the data of import of gold, diamond and platinum into the Country by the dealers from the Director General of Systems and Management, Central Excise and Customs, New Delhi and cross checked the import details furnished by the dealers and found that six dealers in four assessment circles had imported gold, diamond and platinum amounting to 4,191.16 crore against which 496.69 crore only was conceded. The suppression of import purchase worked out to 3,694.46 crore and the resultant short levy of tax, interest and penalty worked out to 126.70 crore.</p>	<p><u>2. The Dhanalaxmi Bank Ltd.</u> <u>(32080208466)</u> <u>2011-12 to 2013-14</u> <u>CTO, Special Circle, Thrissur</u></p> <p>Issued notices u/s 25(A) for the years 2011-12 to 2013-14 to the dealer based on the observation of the C&AG that the Bank had not disclosed the import turnover of bullion in their returns. In response to the notices, the Bank has submitted that it has been registered under VAT in 16 States in India and declared the imports before the jurisdictional authorities concerned.</p> <p>The bank produced returns of certain States. The bank has produced import details of various States across India which has verified in the website https://www.icagate.gov.in/ [ICEGATE is a portal that provides e-filing services to the trade and cargo carriers and other clients of Customs Department].</p> <p>On the verification of VAT Return, Audit Report and VAT Assessment order of Various State Authorities, the following facts are revealed;</p> <ol style="list-style-type: none"> 1. Dhanalaxmi Bank has been authorized by the RBI to import gold as 'nominated agency' under Foreign Trade Policy. The Bank has branches and administrative offices across 16 states in India and has taken VAT/CST registration in those states. 2. The Bank is a registered dealer in 16 States and has been complying with VAT/CST provisions of respective States. 3. The Bank is subject to compliance with VAT provisions of respective states and subject to VAT Audit, VAT assessment of jurisdictional State VAT authorities. 4. Value of import declared before the jurisdictional VAT authorities during the said period (2011-12 to 2013-14) are as follows.

Sl.No.	STATE	TIN	Value declared in the VAT returns/ Audit Report(in Crores)
1.	Kerala	32080208466	123.47
2.	Tamil Nadu	33540600855	1432.28
3.	Andra Pradesh	28173679043	14.00
4.	Karnataka	29940892671	1889.44
5.	Maharashtra	27440777840	12.01
6.	Gujarat	24573302901	92.4
7.	Delhi	07740376328	72.69
8.	Rajasthan	08931766508	52.62
9.	West Bengal	19679929003	35.74
		Total	3724.25

5. The value as per customs record based on valuation is Rs.3570.17 Crores whereas value as per VAT Return is Rs.3724.25 which shows that value as per VAT return is more than import value and whole import was subject to tax but in various states.

6. The Bank had reported the above imports in the VAT

		<p>Returns, VAT Audit Reports of various jurisdictional authorities.</p> <p>7. The import of Rs.51.55 Crores during the financial year 2011-12 and Rs.71.92 Crores during the financial year 2012-13 aggregating to Rs.123.47 Crores, in the state of Kerala were disclosed or conceded in the VAT returns of Kerala state.</p> <p>8. The Bank has produced the list of import made by its Import Export Code (IEC-1002002672) through different customs Ports/Airports across the country.</p> <p>However, the C & AG has not considered VAT registration, returns and payments in other States. Hence the difference is occurred.</p> <p><u>Additional Details</u></p> <p>Total Import value as per the report of C & AG and details from ICEGATE are furnished below:</p> <p>(Rs.in Crores)</p> <table><tr><th>Year</th><th>Import Value as per C & AG Report</th><th>Import value as per bank records(VAT returns & Assessment Orders</th><th>Bill of entry wise details from ICEGATE</th></tr><tr><td>2011-12</td><td>1918.69</td><td>2221.18</td><td>2127.40</td></tr><tr><td>2012-13</td><td>1393.31</td><td>1394.70</td><td>1445.03</td></tr><tr><td>2013-14</td><td>258.17</td><td>250.16</td><td>257.43</td></tr><tr><td>Total</td><td>3570.17</td><td>3866.04</td><td>3829.86</td></tr></table>	Year	Import Value as per C & AG Report	Import value as per bank records(VAT returns & Assessment Orders	Bill of entry wise details from ICEGATE	2011-12	1918.69	2221.18	2127.40	2012-13	1393.31	1394.70	1445.03	2013-14	258.17	250.16	257.43	Total	3570.17	3866.04	3829.86
Year	Import Value as per C & AG Report	Import value as per bank records(VAT returns & Assessment Orders	Bill of entry wise details from ICEGATE																			
2011-12	1918.69	2221.18	2127.40																			
2012-13	1393.31	1394.70	1445.03																			
2013-14	258.17	250.16	257.43																			
Total	3570.17	3866.04	3829.86																			

statement of the details are given below:

Year	Import Value as per Bill of Entry	Import value as per bank records (Assessable value)
2011-12	2127.40	2221.18
2012-13	1445.03	1394.70
2013-14	257.43	250.16
Total	3829.86	3866.04

Customs duty payable on Gold/ Bullion imported is based on Tariff Value as per Section 14(2) of the Customs Act, 1962. Tariff value is calculated as total grms* Rate per grms (notified by CBEC) which is the assessable value. As against this, the value of import declared in the VAT returns is the Notional Value.

At this juncture, it is informed that the Assessing Authority not in a position to Know how the Audit arrived the figure of Rs.258.17 Crores for the year 2013-14 when the Import Value as per Bill of Entry is Rs. 257.43 Crores and in this case the assessable value declared by the bank is Rs.250.16 Crores only. In the years 2011-12 and 2012-13, the bank declared more amount than the amount pointed out by the Audit.

In the circumstances, it is revealed that there is no purchase suppression and hence this objection is not sustainable and may be dropped.

Para No.	Gist of the case	Present position
<p>2.4.3.4(1)</p> <p>Sl.No.3</p>	<p>Audit collected the data of import of gold, diamond and platinum into the Country by the dealers from the Director General of Systems and Management, Central Excise and Customs, New Delhi and cross checked the import details furnished by the dealers and found that six dealers in four assessment circles had imported gold, diamond and platinum amounting to 4,191.16 crore against which 496.69 crore only was conceded. The suppression of import purchase worked out to 3,694.46 crore and the resultant short levy of tax, interest and penalty worked out to 126.70 crore.</p>	<p><u>3. M/s. South Indian Bank Ltd</u> <u>(32080230731)</u> <u>2011-12 & 2012-13</u> <u>CTO, Special Circle, Thrissur</u></p> <p>Issued notices u/s 25(A) for the years 2011-12 & 2012-13 to the dealer based on the observation of the C&AG that the Bank had not disclosed the import turnover of bullion in their returns. In response to the notices, the Bank has submitted that they have entered into a Consignment Agreement for Import of Gold Coin with MKS FINANCE S.A., 10 Promenade St Antoine 1204 Geneva Switzerland dated 18th May 2011. It is evident that the goods transferred to the Bank (Consignee) from MKS FINANCE S.A (Consignor) is under the terms of Consignment Agreement. As per clause 3.1 of the Consignment Agreement Title of the Goods transferred rest with the Consignor MKS Finance S.A until such time the goods are purchased by the consignee.</p> <p>As per the policy and procedure of the Bank, the Bank will transfer the corresponding amount of Purchase from the Consignment Stock based on the respective sales for each transaction. Hence the purchase of Gold Coin will be recognized in the books of accounts of the bank on the basis of respective sales happened and the goods are treated as purchase in the Banks books based on this accounting treatment. Since the balance goods lying with the Consignee belongs to Consignor MKS FINANCE S.A, this will not treated as the Stock of the Bank.</p>

On the verification of books accounts and purchase invoices of bullion, it is revealed that the actual purchase made during the 2011-12 and 2012-13 by the Bank, by the way of transfer from Consignment stock, for sales in Kerala branches is Rs.19,94,24,486.57 and Rs.66,09,99,866.00 respectively.

The statement of Bullion summary -in Kerala as shown as below:-

Particulrs	2011-12		2012-13	
	QTY (Kgs)	Value (Rs.Crs)	QTY (Kgs)	Value (Rs.Crs)
Consignment Opening Stock	0	0	69.20	20.06
Import (consignment transfer) Kochi	142.10	40.44	318.20	
Chennai	30.00	8.03		96.04
Transfer in from other states	0.36	0.10	4.91	2.02
Total Consignment stock available for sale	172.46	48.57	392.31	118.12
Cost of goods sold	73.26	19.94	222.71	66.09
Sale (Other	0	0.54	0.00	3.47

cost)				
Transfer out to other states	30	8.03	49.89	15.58
Consignment closing stock	69.20	20.06	119.71	32.98
Sales	73.26	22.49	222.71	72.88

From this table, it is revealed that there is no suppression in Import purchase. Whatever purchase they have made as per the Consignment Agreement is sold and corresponding Tax has already been paid. KVAT liability in respect of sales from the consignment stock of 69.20 kg and 119.71 kg referred has been fully discharged as and when sales took place in the subsequent year.

On verification of Bill of entry for the year 2011-12, value of goods transferred as consignment transfer based on the bill of entry is amounting to Rs.40,44,30,497/-. The actual purchase in the Kerala State during the year 2011-12 by Bank for sales in Kerala branches is Rs.1,99,42,448.57 and corresponding sales in respect of this purchase which amounts to Rs.22,48,90,310.00 (only bullion) and paid tax of Rs. 22,48,903/-

On verification of bill of entry is amounting to Rs.96,04,26,082/- and in Kerala the actual purchase made during the year 2012-13 by Bank, by way of transfer from consignment stock for sales is Rs.66,09,99,866/- and corresponding sales of Rs.72,88,01,229/- and paid tax of Rs. 72,88,012.00

In the circumstances, it is revealed that there is no purchase suppression and hence this objection is not sustainable and may be dropped.

Para No.	Gist of the Case	Present Position																																								
2.4.3.4(1) Sl.No.4	Audit collected the data of import of gold, diamond and platinum into the Country by the dealers from the Director General of Systems and Management, Central Excise and Customs, New Delhi and cross checked the import details furnished by the dealers and found that six dealers in four assessment circles had imported gold, diamond and platinum amounting to 4,191.16 crore against which 496.69 crore only was conceded. The suppression of import purchase worked out to 3,694.46 crore and the resultant short levy of tax, interest and penalty worked out to 126.70 crore.	<p><u>4. M/s.The Federal Bank Ltd (32070233542)</u> <u>2011-12 to 2013-14</u> <u>CTO, Special Circle - I, Ernakulam</u> <u>2011-12</u></p> <p>The defect pointed out by the Accountant General is regarding the details of purchase of suppression to the tune of Rs.76.82 Crore, 23.22 Crore and 28.55 Crore for the assessment years 2011-12, 2012-13,2013-14 respectively. With reference to the import purchase revealed from the date of Customs Department and that of conceded in the return filed for the respective return period.</p> <p>This has been examined in detail and following are observed.</p> <p><u>Assessment year 2011-12:</u></p> <table><tr><th colspan="5">As per Customs Data (49.46 crore)</th><th colspan="5">As per Accounts conceded (Rs.70.74 Crore)</th></tr><tr><th>Sl. No.</th><th>BE No.</th><th>AE Date</th><th>Quantity</th><th>Value(Rs.)</th><th>Sl. No.</th><th>BE No.</th><th>AE Date</th><th>Quantity</th><th>Value(Rs.)</th></tr><tr><td>1</td><td>4647176</td><td>15.09.2011</td><td>6KG.</td><td>1.66 Crores</td><td>1</td><td>4647176</td><td>15.09.2011</td><td>-</td><td>32.67 Crores</td></tr><tr><td>2</td><td></td><td></td><td>8.75</td><td>2.42</td><td>2</td><td></td><td></td><td></td><td></td></tr></table>	As per Customs Data (49.46 crore)					As per Accounts conceded (Rs.70.74 Crore)					Sl. No.	BE No.	AE Date	Quantity	Value(Rs.)	Sl. No.	BE No.	AE Date	Quantity	Value(Rs.)	1	4647176	15.09.2011	6KG.	1.66 Crores	1	4647176	15.09.2011	-	32.67 Crores	2			8.75	2.42	2				
As per Customs Data (49.46 crore)					As per Accounts conceded (Rs.70.74 Crore)																																					
Sl. No.	BE No.	AE Date	Quantity	Value(Rs.)	Sl. No.	BE No.	AE Date	Quantity	Value(Rs.)																																	
1	4647176	15.09.2011	6KG.	1.66 Crores	1	4647176	15.09.2011	-	32.67 Crores																																	
2			8.75	2.42	2																																					

			KG	1 “					
3			3.0 0 KG	0.8 3 “	3				
4			95 KG	26. 22 “	4				
5			4 KG	1.1 0 “	5				
	Tot al		116 .75 KG	32. 22 “		TO TA L			32.6 7 “
6	490 943 2	13.10 .11	7.5 00 KG	2.0 3 “	6	490 943 2	13.10 .11		17.1 7 Cror es
7	- DO -	13.10 .11	8.7 50 KG	2.3 7 “	7	- DO -			
8	- DO -	13.10 .11	47. 500 KG	12. 84 “	8	- DO -			
	TO TA L		63. 750 KG	17. 24 Cr or es		TO TA L		-	17.1 7 cror es

	-	-	-	-	09	017 66	26.05 .11	-	8.10 Cror es
			-	-	10	036 44	27.07 .11		5.84 CR OR ES
	-	-	-	-	11	006 12	21.04 .2011		6.96 cror e
	-	-	-	-		Tot al			20.9 0 Lak hs
		Gr nd Total	180 .50 0 KG	RS .49 .46		Gr and Tot al			70.7 4 Cro res

There is a total difference of 21.28 crores. The variation understood to be of the following reasons.

a) As per B/E No.4647176 the value as per customs data i.e dollar rate calculated based on INR 46.55 where as

M/s.Federal Bank Ltd. calculated conversion rate at Rs.47.15.

b) As per B/E 4909432 the conversion rate is Rs.49.35 and Rs.45.60 respectively.

c) B/E Nos. as per serial No. 9 to 11 for Rs. 20.90 crores not find a place in the customs data received, but the same is also conceded in Form 10.

Assessment Year 2012-13:

As per Customs Data					As per Accounts conceded				
Sl. No.	BE No.	AE Date	Quantity	Value(Rs.) (Crore)	Sl.No.	BE No.	AE Date	Quantity	Value (Rs.) (Crore)
1	729 609 9	04.07.12	20 kg	5.71	1 to 5	72 96 09	04.07.12	-	18.27 cr.
2		04.07.12	7 kg.	2.00					
3		04.07.12	0.208 gr,	0.06					
4		04.07.12	32.500 kg	9.29					

5		04. 07. 12	1.13 0 kg.	0.32					
		Tot al	60.8 30 kg.	17.3 8 cr.					18.27 cr.
6				0.54					
	642 306	31. 03. 12	2.00 0 Kg.		6 to 11	64 23 06 3	31. 03. 12	-	20.42 cr.
7	3		11.0 00 kg	2.98					
8			0.25 0 kg	0.07					
9			6.25 0 kg	1.70					
10			6.00 kg.	1.63					
11			47.5 00 kg.	12.8 8					
	Tot al		73.0 0 kg	19.8 0 cr.		To tal		-	20.42 cr.
12	854 456 1	21. 11. 12	50.0 0 kg.	15.5 7 Cr.	12	85 44 56	21. 11.	-	16.02 cr.

						1	12		
					13	83 30 10 9	28. 10. 12	-	20.92 cr.
		Gr and Tot al	183. 830 kg.	52.7 5 Cr.		G ra nd tot al		-	75.64 Cr.

There is a total variation of Rs.22.88 crores

a) One of the reason for variation is that the duty paid on import was also conceded with purchase value where as basic price only considered in the customs data.

b) Bill of entry No.8330109 for Rs.20.92 crores not find a place in the customs data.

Assessment Year 2013-14:

As per Customer s data (8.11 Crores)					As per Accounts conceded				
Sl. N o..	BE No.	AE Date	Quanti ty	Val ue(Rs.) (Cr ore)	Sl o..	BE No.	AE Dat e	Qu anti ty	Valu e(Rs) (Cro re)
1		01.0 5.13	12 kg	3.12	1	201 115	01. 05.	-	8.54

						3	13		
	201								
2	115	01.0	1 kg	0.26					
	3	5.13							
3		01.0	15 kg	3.90					
		5.13							
4		01.0	3.200	0.83					
		5.13	kg						
	Tot		31.200	8.11				-	8.54
	al		kg						

There is a difference of Rs.0.43 crores only being duty paid on purchase was also conceded with the purchase value where as basic price was only considered in customs data.

The C&AG Report indicate that there was a purchase suppression to the tune of Rs.76.82 crores, Rs.23.22 crores and Rs.28.55 crores for assessment year 2011-12 to 2013-14 respectively, with reference to the import purchase revealed from the data of Customs Department and that of conceded in the return filed for the respective return period.

The said customs data are inclusive of import purchases effected through various customs houses ie. Bangalore, Chennai, Calcutta, Delhi and Kochi etc.

The Federal Bank Ltd. produced the reason for variation in which it is clearly specified that the import through ACC Kochi alone conceded in the VAT return under the KVAT Act and the rest of the purchases are conceded in the return filed for the respective State Act.

From the above, it can be seen that excess turnover is already conceded than appear in the list of Customs data relating to ACC Kochi. So there is no short levy as pointed out in audit.

Para No.	Gist of the case	Present position
2.4.3.4(1) Sl.No.5	<p>Audit collected the data of import of gold, diamond and platinum into the Country by the dealers from the Director General of Systems and Management, Central Excise and Customs, New Delhi and cross checked the import details furnished by the dealers and found that six dealers in four assessment circles had imported gold, diamond and platinum amounting to 4,191.16 crore against which 496.69 crore only was conceded. The suppression of import purchase worked out to 3,694.46 crore and the resultant short levy of tax, interest and penalty worked out to 126.70 crore.</p>	<p><u>5. Chemmannur Gold Refinery</u> <u>(32071804075)</u> <u>2014-15</u> <u>CTO, Fourth Circle, Ernakulam</u></p> <p>The assessment in respect of M/s.Chemmannur Gold Refinery for the year 2014-15 had been completed creating a demand of Rs. 24,82,612/-. Aggrieved by the order the assessee filed WPC before the Hon'ble High Court of Kerala and the High court stayed the recovery of the amount demanded. WP(C).No.8651/2021(F). Case is still pending</p>

Para No.	Gist of the case	Present position
2.4.3.4(1)) Sl.No.6	Audit collected the data of import of gold, diamond and platinum into the Country by the dealers from the Director General of Systems and Management, Central Excise and Customs, New Delhi and cross checked the import details furnished by the dealers and found that six dealers in four assessment circles had imported gold, diamond and platinum amounting to 4,191.16 crore against which 496.69 crore only was conceded. The suppression of import purchase worked out to 3,694.46 crore and the resultant short levy of tax, interest and penalty worked out to 126.70 crore.	<p><u>6. Aiswarya Jewel Crafts (32080626854)</u> <u>2014-15</u> <u>CTO, Second Circle, Thrissur</u></p> <p>Sri. P.M. Sathyan, Aiswarya Jewels Crafts, P.O. Cherpu, Peruvanam, Thrissur with TIN 32080626854 is engaged in the business in jewellery manufacturing and effecting export sales and local sales. The dealer is importing the gold from Al Nawal Jewellers (L.L.C), Sharjah, UAE and manufacturing ornaments and exported back to Al Nawal Jewellers (L.L.C), Sharjah, UAE. As per annual return filed, the dealer has imported gold worth Rs. 94,07,63,451.00 for the year 2014-15.</p> <p>Total sales turnover conceded : Rs.1,14,02,37,915/- Exempted Sale (0%) : Rs.1,13,63,13,376/- Local Sales : Rs.39,24,539/- Total purchase turnover conceded : Rs.1,19,30,42,753/- Stock Transfer : Rs.25,22,79,302/- Import : Rs.94,07,63,451/-</p> <p>The audit wing collected the data of import made through Cochin Airport by Aiswarya Jewel Crafts for the year 2014-15, from the Director General of Systems and Management, Central Excise and Customs, New Delhi and as per the details:</p> <p>Import as per customs data : Rs.99,23,30,000/- Import as per annual return : Rs.94,07,63,451/- Difference : Rs.5,15,66,549/- : Rs.5,24,43,180.30 (Arrived by adding G.P @ 1.7% on difference).</p> <p>On verification of the data with books of accounts produced and annual return and audit report filed for</p>

the year 2014-15, it is noticed that the assessee has failed to account the following import in the books of accounts.

Sl No.	BE No.	BE Date	Port	Name of Company	Name of Importer	IEC Code	Country of Origin	Quantity	Duty Payable	Total Value
1	64 43 56 8	14.0 8.20 14	A C C Cochin	Gold Bar	Ais war ya Jew el Cra fts	1005 0116 13	Un ite d Ar ab	16 Kg	4 .22	0 0

The dealer stated that the import made through the said BE No.6443568/14.08.2014 was kept in the Cochin customs ware house. Out of this 13 Kgs was released on 16.08.2014 vide BE No.6456201 dated 16.08.2014. The balance 3 Kgs was released on 20.08.2014 vide BE No.6490918 dated 20.08.2014 which also contains the original warehouse BE No.6443568, MAWB number and customs IGM Number.

The dealer had been requested to produce further documents such as Customs bond to prove that the gold imported vide BE No.6443568 dated 14.08.2014 was kept in warehouse and taken on another day. But the dealer has not produced such documents. The dealer has accounted the actual gold value in the

		<p>books of accounts and not the assessment Value calculated by the customs. Hence a notice under section 25(1) was issued to the dealer proposing to assess the balance suppressed import of Rs.5,24,43,180.30 by adding gross profit.</p> <p>The dealer produced Bill of entries, License details, Copy of customs bond etc for verification.</p> <p>On verification of Bill of entries produced, it is noticed that the BE No.6443568/14.08.2014 for 16KGs is for warehouse and BE No.6456201 dated 16.08.2014 for 13 Kg and BE No.6490918 dated 20.08.2014 is for Exbond. The master Air way bill no.17687377124 and Customs IGM No. 637398 is common in three Bill of entries. The dealer has also produced the copy of permission order No. 2012354638 dated 16.08.2014 of Senior Tax Consultant, Custom House, Cochin and 2017384046 dated 20.08.2014 of Dy. Office Superintendent, Customs House, Cochin for to remove the goods worth Rs.3,42,52,531.77 and Rs.79,85,841.00 respectively from warehouse.</p> <p>On verification of the import Licence, it is noticed that according to the import Licence No.1010058580 dated 04.07.2014 that the dealer has the authorization to import 60000gms. gold and CIF Rs.144,927,672.75. As on 04.8.2014, the dealer has the permission to import 17000gms. of gold bullion and the CIF Rs.342,55,943.71 only. So the gold bullion purchased vide invoice No.ANJ.006/12.08.2014 for 16000gram and imported vide BE No.6443568/14.08.2014 for 16 Kgs and Rs.4,21,56,362.15 was kept in warehouse and the same was released on receiving the new licence NO.1010058733 dated 14.08.2014 for the quantity 90,000gram and CIF Rs.22,92,16,978.00.</p> <p>Later the dealer produced the copy of customs bond</p>
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under section 59 of the Customs Act 1962 dated 16.08.2014 for Rs.2,46,50,000.00 in order to deposit the goods imported vide BE No.6443568/14.08.2016 in the Air cargo complex Ware house, Nedumbassery for a period of 3 months from the date of the said permission, to prove that the gold imported vide BE No.6456201 dated 16.08.2014 is for warehouse.

From the above documents it is noticed that there is no difference in the quantity of gold imported. The balance amount of Rs.98,46,377.95 is the difference in the value accounted by the dealer and the Customs Department. The dealer was accounted the actual gold value of import and the Customs Department was the assessment value. Hence the said Audit objection is not sustainable.

The final assessment of the dealer, was completed on 11/03/2022 based on the crime file (included with the file) and also by considering the objections pointed out by the AG. In the final assessment for the year 2014-15, the dealer had a demand of tax Rs.1,29,726/- and interest of Rs.1,08,970/-. The collection particulars of the demand are as follows.

Tax	Chalan No/ GRN No	Date
Rs.33,370/-	1017	31/12/2014
Rs.57,814/- (60% of 96,356/- (Balance Tax under Amnesty scheme)	KL0270046292 02122E	25/03/2022

		<p>At the time of finalisation, the details of import made by M/s.Aiswarya Jewel Crafts are meticulously verified. The difference of amount in imports pointed out to be Rs.5.16 crores (99.23-94.07)</p> <p>The following were verified to find out the differences occurred.</p> <p>1.Bill of entries.</p> <p>2.Valuation made by Custom Authorities to levy duty. The dealer normally imports gold under Advanced Authorisation Scheme. As the dealer could not meet the Advanced Authorisation Criteria, the gold imported under bill of entry No.6443568 dated 14.08.2014 had been warehoused and released only after getting the new authorisation.</p> <p>The value as per bill of entry No.6443568 dated 14.08.2014 is Rs.4,22,38,372.77.</p> <p>The above bill of entry was released as</p> <p>1) 6456201 dated 16.08.2014 as bill of entry exbond Rs.3,42,52,532.00</p> <p>2) 6490918 dated 20.08.2014 as bill of entry exbond Rs.79,85,641.00</p> <p>-----</p> <p>Rs.4,22,38,173.00</p> <p>While releasing the above gold the original bill of entry No.6443568 was treated as "Bill of entry exbond"</p> <p>The total import as per customs include bill of entry for warehouse for Rs.4,22,38,373/-. However excluding this import which is released on exbond comes to Rs.95,01,71,126 (Rs.99,24,09,499 - Rs.4,22,38,373)</p> <p>As discussed above the actual difference comes to 94,07,675 (95,01,71,126 - 94,07,63,451) which is purely valuation made by Customs Authorities @1% on 94,07,63,451/-.</p>
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		<p>Thus it is concluded that there is no escapement of turnover and the value enhanced by Customs Authorities are calculations of import duty. As this enhancement has nothing to do with purchase cost, the dealer need not account the amount. Hence the said audit objection is not sustainable and may be dropped.</p>
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Para 2.4.3.4 (Bullet 2)

Para No.	Gist of the case	Present position
2.4.3.4(2) Sl.No.1	<p>Audit collected the details of scrutiny assessments completed for the year 2013-14 in Circle 1(1) Kozhikode of Income Tax Department (ITD) in respect of four assessees. From the IT assessment records it was observed that the respective assessees offered additional income to the ITD consequent to a survey conducted by the ITD. The sales turnover pertaining to the income so offered was not reckoned for assessment by the respective assessing authorities. The short payment of tax in this regard worked out to 28.93 crore including interest and penalty.</p>	<p><u>1. Apollo Gold , Perambra (32111368986)</u> <u>2012-13 to 2014-15</u> <u>CTO, Special Circle-I, Kozhikode</u></p> <p><u>2012-13</u> The assessment was completed as per the order no.32111368986(1)/12-13 dated 30.01.2017 and creating an additional demand of Rs.58,73,451/- (Tax:Rs.53,95,706/- & Interest:Rs.4,77,475/-). At present the second appeal filed by the State disposed in favour of revenue by the Hon'ble Appellate Tribunal. Steps are being taken to realize the dues through revenue recovery authorities. RRC No.176/2016-17 dtd.27-03-2017. Payment (1) Rs.14,72,676/- (Chalan No.360/06-01-2017) (2) Rs.4,23,690/- Chalan No.501/20-03-2015. The copy of the proceedings is attached herewith.</p> <p><u>2013-14</u> The assessment was completed as per the order no.32111368986/2013-14 dated 21.11.2017 and creating an additional demand of Rs.85,65,960/- as Tax and Rs.36,83,363/- as interest. The Hon'ble high Court has stayed the order as per the WP(C) 40192/2017.</p> <p><u>2014-15</u> High Court Stay for pre assessment notice of 2014-15.</p>

Para No.	Gist of the case	Present position
2.4.3.4(2) Sl.No.2	<p>Audit collected the details of scrutiny assessments completed for the year 2013-14 in Circle 1(1) Kozhikode of Income Tax Department (ITD) in respect of four assessees. From the IT assessment records it was observed that the respective assessees offered additional income to the ITD consequent to a survey conducted by the ITD. The sales turnover pertaining to the income so offered was not reckoned for assessment by the respective assessing authorities. The short payment of tax in this regard worked out to 28.93 crore including interest and penalty.</p>	<p><u>2. Apollo Gold Pvt. Ltd</u> <u>(32100558434)</u> <u>2012-13, 2013-14 & 2014-15</u> <u>CTO, Special Circle, Malappuram</u></p> <p><u>2012-13</u> Assessments has been completed as per order No.32100558434/2012-13 dated 04.04.2018. The DC(Appeals II) has modified the order as per KVATA 462/2018 dated 28.05.2019. Even though the department has filed second appeal before the Additional Appellate Tribunal, Kozhikkode with TA(VAT) No.131/2020, the original assessment orders have been modified on 14.07.2020. And as per the order No.O.P.(TAX) No.9 of 2022 by the Honorable High Court the dealer has paid Rs.2,80,620/-(30% of tax due) as per challan No.KL025310173202122M dated 07.03.2022 and furnished Simple bond for the balance amount on 26.02.2022. Second appeal filed by the dealer and by the State of Kerala are still pending before the Appellate Tribunal. Copy of assessment order, modified order and appellate order of DC(A) are furnished herewith.</p> <p><u>2013-14</u> Assessments has been completed as per order No.32100558434/2013-14 dated 04.04.2018. The DC(Appeals II) has modified the order as per KVATA 461/2018 dated 28.05.2019. Even though the department has filed second appeal before the Additional Appellate Tribunal, Kozhikkode with TA(VAT) No.132/2020, the original assessment orders have been modified on 14.07.2020. And as per the order No.O.P.(TAX) No.9 of 2022 by the Honorable High Court the dealer has paid Rs.4,26,145/-(30% of tax due) as per challan No.KL0253309214202122M dated 07.03.2022 and furnished Simple bond for the balance amount on 26.02.2022. Second appeal filed by</p>

		<p>the dealer and by the State of Kerala are still pending before the Appellate Tribunal. Copy of assessment order, modified order and appellate order of DC(A) are furnished herewith.</p> <p><u>2014-15</u></p> <p>Assessments has been completed as per order No.32100558434/2014-15 dated 04.04.2018. The DC(Appeals II) has modified the order as per KVATA 460/2018 dated 28.05.2019. Even though the department has filed second appeal before the Additional Appellate Tribunal, Kozhikkode with TA(VAT) No.133/2020, the original assessment orders have been modified on 14.07.2020. And as per the order No.O.P.(TAX) No.9 of 2022 by the Honorable High Court ,the dealer has paid Rs.4,90,100/-(30% of tax due) as per challan No.KL002574499202223M dated 28.04.2022 and furnished Simple bond for the balance amount on 26.02.2022. Second appeal filed by the dealer and by the State of Kerala are still pending before the Appellate Tribunal. Copy of assessment order and modified order are furnished herewith.</p>
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Para No.	Gist of the case	Present position
2.4.3.4(2) Sl.No.3	<p>Audit collected the details of scrutiny assessments completed for the year 2013-14 in Circle 1(1) Kozhikode of Income Tax Department (ITD) in respect of four assessees. From the IT assessment records it was observed that the respective assessees offered additional income to the ITD consequent to a survey conducted by the ITD. The sales turnover pertaining to the income so offered was not reckoned for assessment by the respective assessing authorities. The short payment of tax in this regard worked out to 28.93 crore including interest and penalty.</p>	<p><u>3. Apollo Gold Pattambi Ltd (32091134016)</u> <u>2012-13</u> <u>CTO, Pattambi, Palakkad</u></p> <p>The assessment in respect of Apollo Gold Pattambi Ltd (32091134016) for the year 2012-13 was completed on 31.12.2016 by creating a demand for Rs.1,02,52,691/-. The original demand was set aside by the Honourable High Court of Kerala. Subsequently, fresh order was issued by fixing tax of Rs.73,23,351/- and interest of Rs.41,01,077/- and RRC was issued. The dealer filed appeal against this demand before the Deputy Commissioner (Appeals), Palakkad and paid Rs.14,65,000/- being 20% of disputed tax. The appellate authority dismissed the appeal vide order number KVATA no 443/2017 dated 21.03.2018. The dealer filed second appeal before the Appellate tribunal. The appellate tribunal directed the dealer to furnish a simple bond for the balance amount of tax and stayed the recovery proceedings till the disposal of the appeal vide the order INTP No 340/2018 in TA(VAT)960/2018 dated 6/8/2018. The dealer filed a simple bond for the balance amount of Tax. Subsequently the appeal dismissed by the Appellate Tribunal. (copy of the order is attached.) Accordingly the assessee filed OT Rev.40/2023 in TA(VAT) No.960/2018. Consequently The Joint Commissioner(law), Ernakulam informed through email that the Honourable High Court granted stay on condition to remit 20 lakhs within one month on 23/08/2023. But the assessee has not fulfilled the condition. At present the case is pending with the Hon'ble High court of Kerala in OT Rev No.40 of 2023. The demand was recommended to RR Inspecting Assistant Commissioner on 31/05/2018. Now the demand is under Arrear Recovery of State GST department, Palakkad(RRC. No.38/18-19 dated 31.05.2018).</p>

Para No.	Gist of the Case	Present Position
2.4.3.4(2) Sl.No.4	Audit collected the details of scrutiny assessments completed for the year 2013-14 in Circle 1(1) Kozhikode of Income Tax Department (ITD) in respect of four assessees. From the IT assessment records it was observed that the respective assessees offered additional income to the ITD consequent to a survey conducted by the ITD. The sales turnover pertaining to the income so offered was not reckoned for assessment by the respective assessing authorities. The short payment of tax in this regard worked out to 28.93 crore including interest and penalty.	<p><u>4. Apollo Gold(32110800309)</u></p> <p><u>2012-13 to 2014-15</u></p> <p><u>CTO, Third Circle, Kozhikkode</u></p> <p><u>2012-13</u></p> <p>Assessment completed as per the order no. 32110800309/12-13 dated 28.02.2020 with additional demand Rs.9,20,256/- as Tax and Rs.2,57,672/- as interest and arrear amount is advised for RRC.</p> <p><u>2013-14</u></p> <p>Assessment completed on 11.04.2022 with additional demand of Tax Rs.38,645/-. Case pending before Hon'ble High Court.</p> <p><u>2014-15</u></p> <p>Assessment completed on 11.04.2022 with additional demand of Tax Rs.1,25,269/-. Case pending before Hon'ble High Court.</p>

Para 2.4.3.5(Bullet 1)

Para No.	Gist of the case	Present position												
2.4.3.5(1) Sl.No.1	<p>As per Section 8(f)(i) of KVAT Act, any dealer in bullion or ornaments or wares or articles of gold, silver or platinum group metals including diamond may at his option, instead of paying tax on their sale in the State in respect of such goods in accordance with the provisions of Section 6, may pay tax at various tax slabs according to their turnover during the previous year. As per KVAT Act, turnover includes turnover of sale and purchase from unregistered dealers. On a test check of 327 gold dealers, who opted to pay tax under Section 8(f) (i) of the Act, Audit observed that while fixing the compounded rate of tax, the purchases effected from unregistered dealers were omitted to be included in the turnover. This omission resulted in a reduction of stage in the compounded tax slab in four cases. Short levy of compounded tax in this regard worked out to 32.96 lakh.</p>	<p><u>1. Narikkalathil Prince Jewellery (32111206222)</u> <u>2011-12 to 2014-15</u> <u>CTO, Vadakara</u></p> <p><u>2011-12</u> For the year 2011-12, the short levy pointed out in the audit report is NIL.</p> <p><u>2012-13</u> Based on the audit objection, the assessment for the year 2012-13 was completed as per order No.32111206222/12-13 dated 30.08.2017 creating additional demand of Rs. 87,065/-.</p> <p><u>2013-14</u> Based on the audit objection, the assessment for the year 2013-14 was completed as per order No.32111206222/13-14 dated 30.08.2017 creating additional demand of Rs. 1,72,763/-.</p> <p><u>2014-15</u> Based on the audit objection, the assessment for the year 2014-15 was completed as per order No.321112 06222/14-15 dated 30.08.2017 creating additional demand of Rs. 1,98,860/-.</p> <p>The assessee paid 20% of the demanded tax against each year and preferred appeal before the first appellate authority seeking relief.</p> <table><tr><th>Sl.No</th><th>Year</th><th>Amount</th><th>Chalan No./dated</th></tr><tr><td>1</td><td>2012-13</td><td>17,415</td><td>KL007539449201718M/ 03.11.2017</td></tr><tr><td>2</td><td>2013-14</td><td>34,555</td><td>KL007539633201718M/ 03.11.2017</td></tr></table>	Sl.No	Year	Amount	Chalan No./dated	1	2012-13	17,415	KL007539449201718M/ 03.11.2017	2	2013-14	34,555	KL007539633201718M/ 03.11.2017
Sl.No	Year	Amount	Chalan No./dated											
1	2012-13	17,415	KL007539449201718M/ 03.11.2017											
2	2013-14	34,555	KL007539633201718M/ 03.11.2017											

3	2014-15	39,775	KL007539031201718M/ 09.11.2017
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The appellate authority dismissed the appeals. Aggrieved by the appellate order, the assessee fled second appeal before the Kozhikode Additional Bench of the KVAT & AIT & ST Appellate Tribunal. The Honourable Tribunal stay all the recovery proceedings till the disposal of appeal or for 6 months from the date of order whichever happens earlier and directed the assessee to furnish security. The assessee paid Rs.1,19,602/- vide chalan No. KL011869045201819M dated 22.02.2019 as security for the year 2012-13 to 2014-15 at the time of filing 2nd appeal.

There after the dealer withdrawn the appeals filed and opted amnesty scheme 2020 and remitted remaining demand of Rs.1,23,671/- as detailed below.

Sl. No.	Date	Amount	Chalan No.
1	29.06.2020	24,735/-	KL003706922202021E
2.	18.08.2020	33,000/-	KL006501501202021E
3.	19.10.2020	65,936/-	KL010473470202021E

Para No.	Gist of the case	Present position
<p>2.4.3.5(1)</p> <p>Sl.No.2</p>	<p>As per Section 8(f)(i) of KVAT Act, any dealer in bullion or ornaments or wares or articles of gold, silver or platinum group metals including diamond may at his option, instead of paying tax on their sale in the State in respect of such goods in accordance with the provisions of Section 6, may pay tax at various tax slabs according to their turnover during the previous year. As per KVAT Act, turnover includes turnover of sale and purchase from unregistered dealers.</p> <p>On a test check of 327 gold dealers, who opted to pay tax under Section 8(f) (i) of the Act, Audit observed that while fixing the compounded rate of tax, the purchases effected from unregistered dealers were omitted to be included in the turnover. This omission resulted in a reduction of stage in the compounded tax slab in four cases. Short levy of compounded tax in this regard worked out to 32.96 lakh.</p>	<p><u>2.M/s. VINS Jewellery(32061224204)</u> <u>2010-11 to 2013-14</u> <u>CTO, Devikulam</u></p> <p>The dealer has mainly doing business in silver and gold ornaments. The dealer was paying tax under Section 8(F) of KVAT Act 2003 on the compounded regime.</p> <p>“During the year 2011-12 the assessee had disclosed a sales turnover of Rs.70,07,381/- and the turnover on purchase from unregistered dealers for Rs.59,57,768/- and as the total turnover exceeds one crore the compounded tax due is 125% of the tax due for the previous year. Hence the dealer is liable to pay compounded tax of Rs.8,14,665/- as against only Rs.7,56,996/- was paid.</p> <p>“During the year 2012-13 the assessee has disclosed a sales turnover of Rs.82,00,963/- and a turnover on purchase from unregistered dealers is for Rs.69,95,688/- and as the total turnover exceeds on crore the compounded tax due is 125% of the tax due for the previous year. Hence the dealer is liable to pay compounded tax of Rs.10,18,331/- as against only Rs.8,61,924/- was paid.</p> <p>During the year 2013-14 the assessee has disclosed a sales turnover of Rs.93,43,461/- and a turnover on purchase from unregistered dealers is for Rs.1,12,52,295/- and as the total turnover exceeds one crore the compounded tax due is 125% of the tax due for the previous year. Hence the dealer is liable to pay compounded tax of Rs.12,72,914/- as against only Rs.9,39,796/- was paid.”</p> <p>So assessment orders had been issued to the dealer as per order dated 11.11.2016 demanding</p>

		<p>Rs.88,810/- for 2011-12 (Tax:Rs.57,669/- + Interest:Rs.3,11,411/-). Rs.2,22,098/- for 2012-13 (Tax:Rs.1,56,407/- + Interest:Rs.65,691/-) and Rs. 4,33,063/- for 2013-14 (Tax: Rs.3,33,118/- + Interest: Rs.99,945/-). Furthermore penalty of double the tax amount of tax evaded imposed upon the dealer under section 67(1) for the aforesaid years to the tune of Rs.1,15,338/-, Rs.3,12,814/- and Rs.6,66,236/- respectively.</p> <p>Aggrieved by the assessment orders dealer filed appeal before Assistant Commissioner(Appeals) Idukki at Kattappana. The dealer contended that the orders of the Commercial Tax Officer, Devikulam is opposed to law, facts and circumstances of this case and is liable to be quashed and he stated that the Commercial Tax Officer ought to have noted that for the purpose of determining the quantum of compounded tax what is taken into account is only the turnover of the goods in respect of which compounded tax is paid. Where compounded tax is paid only in respect of the sale of Jewellery, the turnover with reference to which the quantum of compounded tax is fixed would take into account only the sales turnover of jewellery and not the purchase value of old gold etc. A different interpretation given by the assessing authority is illegal and arbitrary.</p> <p>He further contended that as per Finance Act 2017 in 6th Amendment of Act 30 of 2004:- in Kerala Value Added Tax 2003(30 of 2004), – (1) in section, sub Section(2), the close(a) the following proviso shall be inserted, namely "provided that notwithstanding anything contained in close(f) of section 8, a dealer paying compounded tax for the goods mentioned in that clause shall not be liable to pay tax under this sub section on such goods with effect from 2013. The above amendment in the Finance Act was passed after the decision of the subcommittee of the Legislative Assembly after the representation from the gold dealers.</p>
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		<p>After hearing together with connected records and evidence produced by the assessee, Appellate Authority vide order Nos. KVATA 954/2016, 955/2016 and 956/2016 directed to modify the compounding order deleting the value of old gold purchased under section 6(2) (a) of the Act from the total turnover fixed for the determination of compounded tax for the aforesaid assessment years.</p> <p>As per direction of the Assistant Commissioner(Appeals) Assessing Authority modified the assessment orders as 'NIL' demand dated 08.09.2017. Meanwhile, the dealer approached the Deputy Commissioner(Appeals), Kottayam against the penalty orders and appeal allowed in favour of the dealer. Since the assessment orders were modified as 'NIL' demand, the penalty orders are also not sustainable and hence the audit objections were also not sustainable.</p>
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Para No.	Gist of the case	Present position																															
2.4.3.5(1)) Sl.No.3	<p>As per Section 8(f)(i) of KVAT Act, any dealer in bullion or ornaments or wares or articles of gold, silver or platinum group metals including diamond may at his option, instead of paying tax on their sale in the State in respect of such goods in accordance with the provisions of Section 6, may pay tax at various tax slabs according to their turnover during the previous year. As per KVAT Act, turnover includes turnover of sale and purchase from unregistered dealers.</p> <p>On a test check of 327 gold dealers, who opted to pay tax under Section 8(f) (i) of the Act, Audit observed that while fixing the compounded rate of tax, the purchases effected from unregistered dealers were omitted to be included in the turnover. This omission resulted in a reduction of stage in the compounded tax slab in four cases. Short levy of compounded tax in this regard worked out to</p>	<p><u>3. Gold Heart (32080743101)</u> <u>2011-12 to 2014-15</u> <u>CTO, III Circle, Thrissur</u></p> <p>As per the defect pointed out by the Audit Enquiry, the assessment was completed for the years 2012-13, 2013-14 & 2014-15 vide Order Nos.32080743101/2012-13 dated 18.03.2017, 32080743101/2013-14 dated 18.03.2017 and 32080743101/2014-15 dated 21.03.2017 respectively. Subsequently the dealer remitted the whole amount under RR as follows.</p> <table><tr><th>Year</th><th>Demand in Rupees</th></tr><tr><td>2012-13</td><td>Rs. 13,118/-</td></tr><tr><td>2013-14</td><td>Rs.16,398/-</td></tr><tr><td>2014-15</td><td>Rs. 51,168/</td></tr></table> <table><tr><th rowspan="2">Year</th><th rowspan="2">Chalan Details</th><th colspan="3">Amount</th><th rowspan="2">Total</th><th rowspan="2"></th></tr><tr><th>Tax</th><th>Inter est</th><th>CC</th></tr><tr><td rowspan="2">2012-13</td><td>KL01003 62572017 18M dated 22.01.2018</td><td>Rs.10,494/-</td><td>Rs.3,551/-</td><td>Rs.702/-</td><td>Rs.14,747/-</td><td>Tax:Rs. 13,118/- Interest :Rs.4,347/-</td></tr><tr><td>KL00859 98022017</td><td>Rs.2,624/-</td><td>Rs.796/-</td><td>-</td><td>Rs.3,420/-</td><td>CC- Rs.3,77</td></tr></table>	Year	Demand in Rupees	2012-13	Rs. 13,118/-	2013-14	Rs.16,398/-	2014-15	Rs. 51,168/	Year	Chalan Details	Amount			Total		Tax	Inter est	CC	2012-13	KL01003 62572017 18M dated 22.01.2018	Rs.10,494/-	Rs.3,551/-	Rs.702/-	Rs.14,747/-	Tax:Rs. 13,118/- Interest :Rs.4,347/-	KL00859 98022017	Rs.2,624/-	Rs.796/-	-	Rs.3,420/-	CC- Rs.3,77
Year	Demand in Rupees																																
2012-13	Rs. 13,118/-																																
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2014-15	Rs. 51,168/																																
Year	Chalan Details	Amount			Total																												
		Tax	Inter est	CC																													
2012-13	KL01003 62572017 18M dated 22.01.2018	Rs.10,494/-	Rs.3,551/-	Rs.702/-	Rs.14,747/-	Tax:Rs. 13,118/- Interest :Rs.4,347/-																											
	KL00859 98022017	Rs.2,624/-	Rs.796/-	-	Rs.3,420/-	CC- Rs.3,77																											

32.96 lakh.		18M dated 07.12.2017					9/-
		KL00860 04702017 18M dated 07.12.2017	-	-	Rs.3,077/-	Rs.3,077/-	
	2013-14	KL01003 64732017 18M dated 22.01.2018	Rs.13,118/-	Rs.2,239/-	Rs.768/-	Rs.16,125/-	Tax:Rs.16,398/- Interest:Rs.2,684/- CC-Rs.768/-
		KL00859 99622017 18M dated 07.12.2017	Rs.3,280/-	Rs.445/-	-	Rs.3,735/-	
	2014-15	KL00860 00962017 18M dated 07.12.2017	Rs.10,234/-	Rs.1,057/-		Rs.11,291/-	TaxRs:43,700/- Interest:Rs.15,515/- CC:Rs.940/-
		KL01092 03382017 18M dated 15.02.2018	Rs.10,000/-	Rs.8,796/-	Rs.940/-	Rs.19,736/-	
		KL01003 67312017 18M dated 22.01.2018	Rs.23,466/-	Rs.5,662/-	-	Rs.29,128/-	
	The dealer has also remitted an amount of Rs.60,000/- as per chalan No.KL011318041201718M dated 02.03.2018 for the						

balance due for the years 2012-13 to 2016-17.
The bifurcation of the amount is as follows.

Years	Amount
2012-13	3,236.00
2013-14	4,826.00
2014-15	10,575.00
2015-16	17,015.00
2016-17	24,348.00
Total	60,000.00

As per all the above said challans, the total amount collected from the dealer with respect to tax and interest for the years 2012-13, 2013-14 and 2014-15 is as follows.

Year s	Amount Due as on the date of payment	Amount paid
2012 -13	20,661.00	20,701.00
2013 -14	23,859.00	23,908.00
2014 -15	68,565.00	69,790.00

NOTE:- There was no short levy during the year 2011-12.

Para No.	Gist of the case	Present position
2.4.3.5(1) Sl.No.4	<p>As per Section 8(f)(i) of KVAT Act, any dealer in bullion or ornaments or wares or articles of gold, silver or platinum group metals including diamond may at his option, instead of paying tax on their sale in the State in respect of such goods in accordance with the provisions of Section 6, may pay tax at various tax slabs according to their turnover during the previous year. As per KVAT Act, turnover includes turnover of sale and purchase from unregistered dealers.</p> <p>On a test check of 327 gold dealers, who opted to pay tax under Section 8(f) (i) of the Act, Audit observed that while fixing the compounded rate of tax, the purchases effected from unregistered dealers were omitted to be included in the turnover. This omission resulted in a reduction of stage in the compounded tax slab in four cases. Short levy of compounded tax in this regard worked out to 32.96 lakh.</p>	<p><u>4. Aruna Jewellery (32111166982)</u> <u>2013-14 & 2014-15</u> <u>CTO, Quilandy</u></p> <p>M/s. Aruna Jewellery is a dealer in jewellery had been paying compounded tax for the last 5 years. As per their returns for the year 2013-14, the dealer had disclosed Rs. 68,35,342/- as their sales turnover and paid compounded tax of Rs. 5,20,106/-. Also as per their Audited Statement in 13/13A, for the year 2013-14 the total sales turnover is Rs.68,35,342/- and there is no 6(2) purchase turnover and hence this total sales turnover Rs.68,35,342/- is to be considered for fixing compounded tax for the next year ie 2014-15 . Since the total sales turnover is below 1 Crore Compounding rate 1.15% is not applicable in this case. In this case the compounded tax payable for the year 2014-15 should be 109% of tax paid in the previous year or 1.09% of sales turnover of the previous year which ever is higher.</p> <p>109% of tax paid (Previous year) (520106x109%) = 5,66,916/- 1.09% of turnover disclosed (6835342 x 1.09%) = 74,505/-</p> <p>Since 109% of tax paid is Rs.566916/- is higher amount, permission is granted to the dealer to compound the said amount of Rs. 5,66,916/- vide Order No. 32111166982/14-15 dated 07-01-2015.</p>

Para 2.4.3.5(Bullet 2)

Para No.	Gist of the case	Present position
2.4.3.5(2) Sl.No.1	<p>As per Section 6(2) of the KVAT Act, every person who purchases taxable goods from a person other than registered dealer shall pay tax on the purchase turnover of goods at the rate specified under Section 6(1). As per fourth proviso below Section 12(1), the goods in respect of which tax under Section 6(2) has been paid are used in the manufacture of taxable goods then the special rebate under this section shall not exceed the output tax payable in respect of such goods or goods manufactured out of such goods. The rate of tax of old gold jewellery is five per cent and that of bullion is one per cent.</p> <p>On a test check of 200 dealers in the State, it was observed that four dealers claimed excess special rebate in respect of old gold purchased from unregistered dealers and converted and sold it as bullion. Excess availing of special rebate resulted in short payment of tax of 132.89 crore.</p>	<p><u>1. Muthoot Fincorp Limited</u> <u>(32010198265)</u> <u>2013-14</u> <u>CTO, Special Circle, Thiruvananthapuram</u></p> <p>M/s.Muthoot Fin Corp Ltd, Muthoot Centre, TC No. 14/2074-7, Punnen Road, Thiruvananthapuram is a registered dealer on the rolls of the Special Circle, Thiruvananthapuram bearing TIN 32010198265. The final assessment of the dealer for 2013-14 was completed vide Order dated 19.09.2016 which was subsequently modified demanding an amount of Rs.6,93,72,271/- as per the Order No.32010198265 dtd. 24.11.2020 in compliance to the directions in the Appellate Order No.KVATA No.994/16 dated 04.11.2019 of the Deputy Commissioner of State Tax (Appeals), Thiruvananthapuram.</p> <p>The above details have been furnished to the Audit Officer, office of the Principal Accountant General (Audit-II), Thiruvananthapuram as per letter No.32010198265/2013-14 dtd. 04.08.2021 in response to that office letter No. AMG-I(HQ)II/Au-II/GL/2021-22/87 dtd.26.07.2021.</p> <p>Subsequently, we have received an Audit Requisition No.Nil dtd.04.08.2021 (AMG-I(HQ)II dtd.04.08.2021. In that letter, the Accountant General raised an objection that the interest due for the period from 10/2016 to 11/2020 come to Rs.3,39,92,412/-. But in the assessment order dtd.24.11.2020, the</p>

		<p>interest levied is Rs.34,68,614/- only resulting short levy of Rs.3,05,23,798/-.</p> <p>Accordingly notice in this regard has been issued to the assessee on 16.09.2021 and the modified order dtd.24.11.2020 was rectified by the Deputy Commissioner -III, Thiruvananthapuram vide order dtd. 07.10.2021. These details have already been furnished to the Accountant General(Audit II), Thiruvananthapuram as per letter dtd.12.10.2021.</p> <p>The present assessing authority, AC, TPSC, Fort reported that, as per direction from the appellate authority dated 29.04.2022, the assessment of the dealer has been modified on 04.11.2023. No material evidence was traced out to prove that the dealer had purchased gold from unregistered dealers. The turnover shown in the auction sale ledger for gold ornaments was actually turnover on the sale on the auction sale of bullion and gold ornaments which was actually the pledged items by the defaulter loanees. Hence the modified order dated 04.11.2023, in respect of the dealer was completed as a case on Nil demand. Copy of appellate order dated 29.04.22 and copy of modified order are enclosed for reference.</p>
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Para No.	Gist of the case	Present position
2.4.3.5(2) Sl.No.2	<p>As per Section 6(2) of the KVAT Act, every person who purchases taxable goods from a person other than registered dealer shall pay tax on the purchase turnover of goods at the rate specified under Section 6(1). As per fourth proviso below Section 12(1), the goods in respect of which tax under Section 6(2) has been paid are used in the manufacture of taxable goods then the special rebate under this section shall not exceed the output tax payable in respect of such goods or goods manufactured out of such goods. The rate of tax of old gold jewellery is five per cent and that of bullion is one per cent.</p> <p>On a test check of 200 dealers in the State, it was observed that four dealers claimed excess special rebate in respect of old gold purchased from unregistered dealers and converted and sold it as bullion. Excess availing of special rebate resulted in short payment of tax of 132.89 crore.</p>	<p><u>2. M/s. Alappatt Jewellers (32070379904)</u> <u>2014-15</u> <u>Ernakulam</u></p> <p>Based on audit objection , the assessment was completed on 20.04.2021 creating an additional demand of Rs.1,38,782/- as tax and Rs.83,269/- as interest. Dealer opted amnesty, 2022 for the total demand of Rs.,2,22,051.00 and done E-payment for Rs.83,269.20 (60% of the total tax)</p>

Para No.	Gist of the case	Present position
2.4.3.5(2) Sl.No.3 to Sl.No.5	<p>As per Section 6(2) of the KVAT Act, every person who purchases taxable goods from a person other than registered dealer shall pay tax on the purchase turnover of goods at the rate specified under Section 6(1). As per fourth proviso below Section 12(1), the goods in respect of which tax under Section 6(2) has been paid are used in the manufacture of taxable goods then the special rebate under this section shall not exceed the output tax payable in respect of such goods or goods manufactured out of such goods. The rate of tax of old gold jewellery is five per cent and that of bullion is one per cent.</p> <p>On a test check of 200 dealers in the State, it was observed that four dealers claimed excess special rebate in respect of old gold purchased from unregistered dealers and converted and sold it as bullion. Excess availing of special rebate resulted in short payment of tax of 132.89 crore.</p>	<p><u>3. M/s. K.P. Varghese & Sons</u> <u>(32070303674)</u> <u>2011-12, 2012-13 & 2014-15</u> <u>CTO, Third Circle, Ernakulam</u></p> <p>Considering the audit objection, the assessment of the M/s.K.P. Varghese & Sons bearing TIN No.3207033674 for the years 2011-12, 2012-13 and 2014-15 was completed as per the order No. 32070303674/2011-12 dated 30.01.2017, order No. 32070303674/2012-13 dated 30.01.2017 and order No.32070303674/2013-14. Aggrieved by this Orders the assessee filed Writ Petition before the Hon'ble High Court of Kerala, Ernakulam. Subsequently the Writ Petition filed by the assessee was disposed and "set aside" by the Hon'ble High Court. The Hon'ble High Court directed the Assessing Authority to issue separate notice and to pass fresh orders. As per the direction of the Hon'ble High Court, a notice has been issued to the dealer on 28-12-2020, for producing the Books of Accounts. On verification of the Books of Accounts, Monthly Return, Annual Return and Audited Statement for the year 2011-2012, 2012-13 and 2014-2015 it is revealed that the objection of the Accountant General is not sustainable.</p> <p>6(2) tax payable in the month can be availed as special rebate in the month its self. The only condition is that the goods purchased shall be disposed under taxable purposes during the month its self. When the 6(2) tax payable is availed as special rebate U/s 12(1) the net tax payable under 6(2) is nil. In our case the assessee has purchased gold bullion from unregistered dealers during the year 2011-12 for Rs.1,12,00,000/- and disposed in the year itself for taxable purposes. Hence the assessee can avail special rebate during the year itself. As per the annual return filed the 6(2) tax payable is Rs.1,10,323/-. The 6(2) purchase value is Rs.1,10,32,293/-. But as per the Form</p>

		<p>13&13A the 6(2) purchase value is Rs.1,12,00,000/-. The 6(2) tax is Rs.1,12,513/-. In the annual return the Output tax of 6(2) purchase is declared at Rs.1,10,323/- but Special Rebate claimed is Rs.1,12,513/-. So the excess claim is Rs.2,190/- for the year 2011-12 and the assessee has purchased Gold Bullion from unregistered dealers during the year 2012-2013 for Rs.3,06,40,419/- and 2014-15 for Rs.2,49,32,953/- and disposed in the concerned years itself for taxable purposes. Hence the assessee can avail Special Rebate during the years itself. The assessee is purchasing the Gold Bullion and it sold it locally for the period 2012-13, 2013-14 and 2014-15. The 6(2) tax is adjusted in Special Rebate vide Section 12(1). No short levy is occurred for the period 2012-13, 2013-14 and 2014-15.</p> <p>It is submitted that the tax paid on purchases of goods is generally allowed to set off against the tax payable on the sale (Output tax) of such goods the tax paid on purchase of goods from unregistered dealers Under Section 6(2) is permitted to be set off against the liability of output tax under KVAT Act or the CST Act as Special Rebate.</p> <p>In this case the assessee is purchasing the Gold Bullion and it sold it locally. Hence he is eligible for Special Rebate. The 6(2) tax is adjusted in Special Rebate vide section 12(2) which is perfectly valid in Law. No short levy is occurred in this case except Rs.2,190/- which was demanded with interest from the assessee for the year 2011-12 and the dealer remitted the entire amount(Rs4,555/-)</p> <p>In view of the facts and mandatory provisions the objections raised by the Accountant General is not sustainable. Hence it may be dropped.</p>
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Para No.	Gist of the case	Present position
<p>2.4.3.5(2)</p> <p>Sl.No.6</p>	<p>As per Section 6(2) of the KVAT Act, every person who purchases taxable goods from a person other than registered dealer shall pay tax on the purchase turnover of goods at the rate specified under Section 6(1). As per fourth proviso below Section 12(1), the goods in respect of which tax under Section 6(2) has been paid are used in the manufacture of taxable goods then the special rebate under this section shall not exceed the output tax payable in respect of such goods or goods manufactured out of such goods. The rate of tax of old gold jewellery is five per cent and that of bullion is one per cent.</p> <p>On a test check of 200 dealers in the State, it was observed that four dealers claimed excess special rebate in respect of old gold purchased from unregistered dealers and converted and sold it as bullion. Excess availing of special rebate resulted in short payment of tax of 132.89 crore.</p>	<p><u>6. Manappuram Jewellers (32081104372)</u> <u>2013-14</u> <u>CTO, Special Circle, Thrissur</u> <u>2013-14</u></p> <p>The C & AG observed that the dealer claimed excess special rebate in respect of old gold purchased from unregistered dealers and converted and sold it as bullion. Excess availing of special rebate resulted in short payment of tax of Rs.103.66 crores including interest and penalty for the years 2013-14 & 2014-15.</p> <p>Considering the audit objection, the assessment was completed as per order No. 32081104372/2013-14 dated 27.03.2021 by disallowing IPT and Special rebate and creating additional demand of Rs.58,00,83,552.56 and interest of Rs.48,72,70,184.00. The assessee filed an appeal before the Hon'ble High Court of Kerala (WP(c)No.8734/2021) and stayed all further proceedings till the final disposal of the writ petition. The petition is still pending. Request for speedy disposal of the above case had been submitted.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(2)</p> <p>Sl.No.7</p>	<p>As per Section 6(2) of the KVAT Act, every person who purchases taxable goods from a person other than registered dealer shall pay tax on the purchase turnover of goods at the rate specified under Section 6(1). As per fourth proviso below Section 12(1), the goods in respect of which tax under Section 6(2) has been paid are used in the manufacture of taxable goods then the special rebate under this section shall not exceed the output tax payable in respect of such goods or goods manufactured out of such goods. The rate of tax of old gold jewellery is five per cent and that of bullion is one per cent.</p> <p>On a test check of 200 dealers in the State, it was observed that four dealers claimed excess special rebate in respect of old gold purchased from unregistered dealers and converted and sold it as bullion. Excess availing of special rebate resulted in short payment of tax of 132.89 crore.</p>	<p><u>7. Manappuram Jewellers (32081104372)</u> <u>2014-15</u> <u>CTO, Special Circle, Thrissur</u></p> <p>The C & AG observed that the dealer claimed excess special rebate in respect of old gold purchased from unregistered dealers and converted and sold it as bullion. Excess availing of special rebate resulted in short payment of tax of Rs.103.66 crore including interest and penalty for the years 2013-14 & 2014-15.</p> <p>Considering the audit objection, the assessment was completed as per order No.32081104372/2014-15 dated 27.03.2021 by disallowing IPT and Special rebate and creating additional demand of Rs.53,43,84,965.07 and interest of Rs.51,30,09,566.46. The assessee filed an appeal before the Hon'ble High Court of Kerala(WP(c)No.8717/2021) and stayed all further proceedings till the final disposal of the writ petition. The petition is still pending. Request for speedy disposal of the above case had been submitted.</p>

Para 2.4.3.5(Bullet 3)

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.1	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the</p>	<p><u>1. Archana Jewellery</u> <u>(32020661992)</u> <u>2013-14</u> <u>CTO, First Circle, Kollam</u></p> <p>The Audit team observed that the dealer was opted to pay compounded tax for the first time in 2013-14. But he had not paid reverse tax on the closing stock for the year 2012-13 and found out short levy of reverse tax with interest and penalty. Based on the audit objection, the assessment has been completed U/s.25(A) of KVAT Act on 02.12.2016 demanding tax for Rs.1,80,253/- and interest Rs.79,311/- and penalty has been confirmed U/s.67(1) as Rs.3,60,506/-. Aggrieved by the order, the dealer filed appeal before the Deputy Commissioner(Appeal), Kollam and Deputy Commissioner (Appeals) directed the assessing authority to modify the assessment on the following grounds.</p> <p>Section 12(1b) states conditions for allowing of the special rebates in situations where such goods are intended for resale or for use in the manufacture of taxable goods or use in the execution of works contract or for use as containers or as packing materials for the packing of taxable goods in the state. Further Section 12(4) runs as "where rebate is claimed under Sub Section(1) in respect of any goods during a return period and goods are subsequently used, fully or partly for purposes other than those specified in the aid sub section or has remained as unsold at the time of closure of business, in relation to such goods the rebate claimed on such goods used otherwise or remained as unsold at the time of closure shall be the reverse tax for that return period which may be determined in the same manner as if it were a reverse tax accrued under Sub Section 7 of Section 11.</p> <p>So as per above provision ie., as per section 12(4) special rebate availed shall be reversed in two occasions (1) the goods are after</p>

	<p>closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p>availing special rebate subsequently used for purpose other than those specified in the said Sub Section or has remained as unsold at the time of closure of business.</p> <p>First occasion is relevant in the impugned case. Purposes specified in the Sub Section are (1) for resale, (2) for use in the manufacture of taxable goods (3) use in the execution of works contract (4) for use as containers or as packing materials for the packing taxable goods in the state.</p> <p>So special rebate shall be reversed in situations where the goods are subsequently used for purpose other than above purposes. Compounding option for tax remittance is not mentioned there. In compounding scheme also goods are for resale. The word "for resale" is an allowable conditions for availing special rebate. Special rebate cannot be reversed on the closing stock when dealers are opting compounding for the first time. But special rebate is not available for the unregistered purchase made during the compounding year. But input tax availed should be reversed on closing stock value when opt for compounding as 11(4) specifically provides denial of Input tax in situations where Input tax is not eligible. If opt compounding input tax is not eligible.</p> <p>In the above circumstances the assessing authority is directed to levy the reverse tax only for the input tax set off availed on goods held on stock as on 31.03.2013 and delete the levy of reverse tax of special rebate already availed on stock value on 31.03.2013 and modify the order accordingly on 10.01.2018. Thus the liability of the dealer reduced to tax Rs.6,937/- interest Rs.3,122/- and Penalty Rs.13,874/-. These amounts are paid as per Chalan No.004832355201718M dated 05.08.2017 and KL004832369201718M dated 05.08.2017.</p>
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Para No.	Gist of the case	Present position												
2.4.3.5(3) Sl.No.2	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>2. Anu Jewellery (32021113634)</u> <u>2013-14</u> <u>CTO, Punalur</u></p> <p>Based on the audit objection, the assessment for the year 2013-14 has been completed on 02.11.2016 creating additional demand of Rs.45,403/- as tax and Rs.19,523/- as interest. For settling these arrears, the dealer filed option under amnesty scheme 2019-20 and remitted entire dues in 5 installments. By opting Amnesty scheme, the assessee would have to pay only the tax without interest and penalty.</p> <p>Collection details of tax are given below.</p> <table><tr><th>Amount (Rs.)</th><th>Chalan. no. & Date</th></tr><tr><td>Rs.12,985/-</td><td>77/23.11.2016</td></tr><tr><td>Rs.10,000/-</td><td>KL013667518201819M/ 30.03.2019</td></tr><tr><td>Rs.10,000/-</td><td>KL012303519201819M/ 27.02.2019</td></tr><tr><td>Rs.10,000/-</td><td>KL011105584201819M/ 02.02.2019</td></tr><tr><td>Rs.2,418/-</td><td>KL001924531201920/16.0 5.2019</td></tr></table>	Amount (Rs.)	Chalan. no. & Date	Rs.12,985/-	77/23.11.2016	Rs.10,000/-	KL013667518201819M/ 30.03.2019	Rs.10,000/-	KL012303519201819M/ 27.02.2019	Rs.10,000/-	KL011105584201819M/ 02.02.2019	Rs.2,418/-	KL001924531201920/16.0 5.2019
Amount (Rs.)	Chalan. no. & Date													
Rs.12,985/-	77/23.11.2016													
Rs.10,000/-	KL013667518201819M/ 30.03.2019													
Rs.10,000/-	KL012303519201819M/ 27.02.2019													
Rs.10,000/-	KL011105584201819M/ 02.02.2019													
Rs.2,418/-	KL001924531201920/16.0 5.2019													

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.3	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>3. Edimannikkal Fashion Jewellery</u> <u>(32021163415)</u> <u>2013-14</u> <u>CTO, Punalur</u></p> <p>During the year 2013-14, the assessee had reported opening stock of Rs.14,70,68,848/-. On Audit Objection, the AG had estimated the tax for the whole amount at 5% and the demand became 73.53 Lakhs. But on further verification of the annual return for the year 2012-13 the major portion of local purchase were at rate of 1% and assessee availed Rs.17,20,394/- only for IPT and special rebate for the year 2012-13. This amount has been assessed and created additional demand of tax Rs.17,20,394/-, interest Rs.8,42,993/- and penalty Rs.34,40,788/-.</p> <p>The assessee opted amnesty scheme 2020 and made a lumpsom payment of arrears for the years 2013-14, 2015-16 & 2016-17 through onetime settlement vide Ch.No.KL004486097202021E dated 10.07.2020 Rs.7,98,331/-. Payment for 2013-14 - Rs.6,88,157/-, 2015-16 - Rs.72,840/- and 2016-17 - Rs.37,333/-. Copy of annual return for the year 2012-13 and assessment order for the year 2013-14 are submit for evidence.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.4</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>4. M/s. Bhima Gems(Adoor) Pvt. Ltd</u> <u>(32030259344)</u> <u>2013-14</u> <u>CTO, Pathanamthitta</u></p> <p>M/s. Bhima Gems (adoor) Pvt. Ltd, Adoor is a dealer in Gold and opted compounding scheme to pay tax for the year 2013-14. In the previous year during 2012-13 the dealer had not opted for compounding. During the year 2012-13 they have reported a closing stock valued Rs.53,53,30,730/-. The audit team pointed out that the dealer who opted to pay compounded tax for the year 2013-14 has not paid the reverse tax on the closing stock for the year 2012-13.</p> <p>The assessment was completed creating an additional demand of Rs.3,75,00,542/- including interest as per the Order No. 32030259344/2012-13 dated 06.11.2017. Penalty of Rs.5,24,48,310/- has also been imposed as per order No.32030259344/2012-13 dated 06.11.2017.</p> <p>Against the orders the assessee filed WP(C)No.41154/2017 before the Hon'ble High Court of Kerala and the Hon,ble High Court has granted interim stay. This case is still under stay by the Hon'ble High Court of Kerala.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.5</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate. Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>5. Sky Jewellery (32040237025)</u> <u>2013-14</u> <u>CTO, Special Circle, Alappuzha</u></p> <p>The dealer running a jewellery in the name and style M/s.Sky jewellery during the year 2012-13. He was in Possession of closing stock amount to Rs.10,27,03,431.00. This closing stock was due to 6(2) purchases. During the year 2013-14, the dealer switched over to compounding scheme and hence they are not entitled to get IPT or special rebate as per section 12(2) of KVAT Act 2003. In this context, assessing authority issued order dated 02.11.2016 creating an additional demand of tax Rs. 54,18,199/- and interest Rs.23,84,007/- which includes other defects also. The dealer filed appeal before Deputy Commissioner (appeals), Kollam and remitted Rs.11,00,000/- vide chalan no. 225/22.12.2016. The Deputy Commissioner(Appeals), Kollam vide order no.KVATA(ALPY) 609A/16 dated 27.09.2017 directed the assessing authority to delete the disallowance of special rebate during the year 2012-13, since the appellant had not opted compounding during the year 2012-13 and also to examine the reversal of the input tax/special rebate for the year 2013-14 during which the appellant had opted compounding for the first time and complete the assessment if found any irregularity. As per the direction assessment modified on 30.06.2018 vide order No.32040237025/2012-13 and the remittance is excess of Rs.6,89,611/-. The assessing authority has filed second appeal against the order of Deputy Commissioner(Appeals), Kollam on 16.01.2018. The Hon'ble Tribunal vide order No.TA(VAT) Nos.08/2018 dated 30.03.2023 disposed the second appeal by dismissing the appeal filed by the state. The Hon'ble Tribunal relied upon the decision of the Hon'ble High Court of Kerala in OT revision No.08/2021(Rani Jewellery Vs State of Kerala) and OT Rev.No.180/2020(Arabian Jewellery Vs State of Kerala). The Hon'ble Tribunal observed that the</p>

		<p>dealer availed special rebate in respect of the items during the year 2012-13 while he was a dealer paying tax U/s 6(1) of the Act and he had availed option for payment of tax at compounded rate from 2013-14. The Hon'ble Tribunal held that there was as no illegality in the order of the first appellate authority setting aside the order of the assessing authority disallowing the special rebate availed by the dealer for the year 2012-13 since the assessing authority could not show that the assessee had claimed special rebate during the period of availing the option of payment of tax at compounded rate w.e.f.01.04.2013 or that he had done any of the act with respect to the goods remained unsold as on 31.03.2013 in any of the condition or contingencies as set out in section 12(4) of the KVAT Act.</p>
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Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.6</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>6. Kairali Fashion Jewellers (32040827212)</u> <u>2013-14</u> <u>CTO, Cherthala</u></p> <p>Sri.Cyriac, Kairali Fashion Jewellers, Cherthala is a registered dealer on the rolls of the office of the State Tax Officer, Cherthala bearing TIN 32040827212. The irregularity pointed out in respect of the above dealer is non levy of reverse tax.</p> <p>The assessment of the dealer for the year 2012-13 has been completed as per order No.32040827212/2012-13 dated 19.11.2016. On the basis of the audit objection demanding an amount of Rs.28,234/- towards tax and Rs.11,858/- towards interest(Total Rs.40,092/-) and imposed a penalty of Rs.56,469/- vide Order No.32040827212/2012-13 dated 19.11.2016. The assessee paid tax Rs.5,647/- as per Chalan No.155 dated 30.11.2016. Aggrieved by the order the dealer moved in appeal before the Assistant Commissioner(Appeals), Alappuzha. Order No. KVATA(ALPY) 301/2018 dated 08.05.2019 and the appeal stands set aside. As per the direction of the Appellate Authority, the assessing authority complete the assessment as per the order No.32040827212/2012-13 dated 15.10.2019. The dealer opted Amnesty Scheme - 2020 and remitted 40% of the tax amount wide e-chalan No. KL008395634202021E.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.7</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>7. M/s. Bhima Gold and Gems Pvt Ltd</u> <u>(32061419965)</u> <u>2013-14</u> <u>CTO, Special Circle, Thodupuzha</u></p> <p>The rules governing the compounding system do not envisage the reversal of input tax that had availed during the penultimate fiscal on the stock at the end of the year if a dealer opt to come in the ambit of the system. As per Section 11(7) of the KVAT Act 2003. "If goods in respect of which input tax credit has been availed of are subsequently used, fully or partly, for purposes in relation to which no input tax credit is allowable under the section, the input tax credit availed of in respect of such goods shall be reverse tax". The same aspect is clearly stated in Rule 15 also.</p> <p>In the present case the dealer had not used the goods in respect of which IPT has been availed for the purpose mentioned in section 11(7) and Rule 15 of KVAT Act and Rules. The dealer has "sold" the goods subsequently in the course of the business and remitted tax according to the basis of compounded tax scheme. The dealer has not "used" the goods for their own use or any other purpose. The "sale" in the course of business does not come under the provision of reverse tax. The only thing the dealer had done is that, they had opted compounding scheme U/s 8 of the KVAT Act 2003 for payment of tax as authorized by the KVAT Act 2003 and the dealer properly remitted the same. The dealer had not availed any Input Tax claim during the period of payment of tax U/s 8 of the KVAT Act 2003. Moreover the dealer had not coming under the purview of Section 11(4), 11(7) of the KVAT Act 2003 and Rule 15 of the KVAT Rule 2005, since the dealer had not used the</p>

		<p>goods for the purpose mentioned in the definition for the IPT, but the goods were subjected to sale in the course of the business as per law which negate the reversal. In the circumstances, the audit objection relating to the reverse tax liability of the dealer opted for the compounded rate of tax is not sustainable and may please be dropped.</p>
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Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.8	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate. Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty</p>	<p><u>8. Alapatt Fashion Jewellery (32070364795)</u> <u>2013-14</u> <u>CTO, Special Circle II, Ernakulam</u></p> <p>The audit team observed that the dealer was opted to pay compound tax for the first time in 2013-14. But he had not paid reverse tax on the closing stock for the year 2013-14 and found out short levy of reverse charge with interest and penalty. Based on the audit objection assessing authority carefully examined the case and it is observed the following. Section 12 1(b) state conditions for allowing of special rebates in situations where such goods are intended for resale or for use in the manufacture of taxable goods or use in the execution of works contract or for use as containers or as packing materials for the packing of taxable goods in the state. Further sec.12(4) runs as "where rebate is claimed under sub section (1) in respect of any goods during a return periods and goods are subsequently used, fully or partly for purposes other than those specified in the said sub section or has remained as unsold at the time of closure of business in relation to such goods the rebate claimed on such goods used other wise or remained as unsold at the time of closure shall be the reverse tax for that return period which may be determined in the same manner as if it were a reverse tax accrued under sub section 7 of sec 11. So as per the above provision ie, as per sec.12(4) special rebate availed shall be reversed in two occasion I) the goods are after availing special rebate subsequently used for purpose other than those specified in the said sub section or has remained as unsold at the time of closure of business. First occasion is relevant in this case. Purposes specified in the sub section are i)for resale ii) for use in the manufacture of taxable goods iii) used in the execution of work contract iv)for use as containers or as packing materials for the packing taxable goods in the sate. So special rebate shall be reversed in situations where the goods are subsequently used for purpose other than above. Compounding options for tax remittance is not mentioned</p>

	of 80.89 crore.	here. In compounding scheme also goods are for resale. The word "for resale" is an allowable conditions for availing special rebate. Special rebate cannot be reversed on the closing stock when the dealers are opting compounding for the first time but special rebate is not available for the unregistered purchase made during the compounding year, unlike input tax availed which 11(4) specifically provides situations when input tax is eligible.
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Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.9</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>9. M/s. Swapna Jewellery(32081089285)</u> <u>2013-14</u> <u>CTO, Kodungallur</u></p> <p>The assessment in respect of M/s. Swapna Jewellery Pvt. Ltd., Kodungallur has been completed vide order No.32081089285/2013-14 dated 27-02-2017. The demand created is Rs.4,71,665/- and Rs.1,91,753/- towards tax and interest respectively. The assessee opted Amnesty Scheme 2020-21 and paid Rs.1,88,666/- vide chalan No. KL005669672202021E dated 04-08-2020. Since the assessment has been completed and the dealer has paid the due amount as per amnesty scheme, audit objection may be dropped.</p>

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.10	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>10. Soundarya Jewellers (32081395454)</u> <u>2013-14</u> <u>CTO, Wadakkancherry</u></p> <p>Assessment in respect of M/s. Soundarya Jewellers for the year 2013-14 has been completed vide order No.32081395454/13-14 dated 16.07.2018 considering the defect pointed out by the Accountant General and created an additional demand of tax Rs.56,819/- and interest Rs.35,796/-. The dealer paid Rs.11,400/- as per chalan No.KL013717543201819M dated 30.03.2019. After this payment the dealer opted amnesty scheme 2019-20 and paid the arrears Rs.10,000/- as per chalan No. KL006226589201920M dated 20.08.2019, Rs.10,000/- as per chalan No.8729542 dated 17.10.2019, Rs.10,000/- as per chalan No. 011338061 dated 05.12.2019 and Rs.15,419/- as per chalan No.KL013344915201920M dated 17.01.2020. Interest fully waived in Amnesty Scheme 2019-20. There is no arrears outstanding against the dealer for the year 2013-14. Hence the para may be dropped.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.11</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>11. Kavitha Gold And Diamonds</u> <u>(32091049629)</u> <u>2013-14</u> <u>CTO. Ottapalam</u></p> <p>The assessment in respect of the dealer for the year 2012-13 was completed vide this office proceedings No.32091049629/2012-13 dated 28-03-2019 by creating an additional demand of Rs.97,330/-. The dealer had remitted Rs.97,330/- vide Demand Draft No.911110 dated 30.03.2019. Copy of assessment order and payment details are enclosed. Hence the draft para may be dropped.</p>

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.12	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>12. Blossom Gold Collections Pvt. Ltd.</u> <u>(32100210224)</u> <u>2013-14</u> <u>CTO, Special Circle, Malappuram</u></p> <p>Assessment for the year 2013-14 has been completed as per the order No.32100210224/2013-14 dated 28.02.2020 with an additional demand of Rs.36,59,776/-. A separate penalty order U/s 67(1) of the KVAT Act imposing a penalty of Rs.40,21,732/- as per the order No.32100210224/2013-14 dated 29.02.2020 also been issued. Arrears are settled under Amnesty 2020 and paid Rs.8,04,347/- vide challan No. KL004339514202021E dated 08.07.2020.</p> <p>The short levy of reverse tax as per audit objection is 0.65 Cr whereas tax demanded is 0.20 Cr only. The reason for difference in demand and short levy is as follows:</p> <p>The Audit Objection of C&AG Wing was related to Non remittance of the proportionate ITC and Special rebate on the opening stock as on 01.04.2013 (which subjected to the option of the remittance of the tax at the Compounded Rate without ITC and Special Rebate). The huge amount of reverse tax in the audit objection was resulted from the cumulative purchases for the financial years of both 2011-12 and 2012-13 which expressed as opening stock as on 01.04.2013. By considering proportionate opening stock for the respective years of 2011-12 and 2012-13, the huge amount in the audit objection is lowered. Detailed calculation is shown in the Penalty Order No.32100210224/2013-14 dated 29.02.2020 attached herewith.</p>

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.13	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 didnot pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>13. Ponnani Gold (P) Ltd.(32100864063)</u> <u>2013-14</u> <u>CTO, Ponnani</u></p> <p>Notice No.32100864063/13-14 dtd. 15.11.16 u/s.25(1) of KVAT 2003 was issued to the dealer on 21.11.16. Against this the dealer filed appeal before Hon'ble High Court of Kerala. Honourable High Court of Kerala in WP(C) 40481/2016 dated 08.08.2023 quashed impugned notices proposing assessment of purchase tax. But the present case is related to imposition of reverse tax on closing stock value as on 31.03.2013. Hence a notice was issued to the dealer to the above extent vide Notice No.32100864063/2013-14 dated 05.08.2024 by offering an opportunity for a further personal hearing.</p>

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.14	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>14. Eminent Jewel Arcade Pvt. Ltd.(32101081896)</u> <u>2013- 14</u> <u>CTO, Special Circle, Malappuram</u></p> <p>Assessment for the year 2013-14 has been completed as per the order No.32101081896/2013-14 dated 26.02.2020 with an additional demand of Rs.44,56,241/-. A separate penalty order U/s 67(1) of the KVAT Act imposing a penalty of Rs.49,23,532/- as per the order No.32101081896/2013-14 dated 27.02.2020 also been issued. Arrears are settled under Amnesty 2020 and paid Rs.9,77,422/- vide challan No. KL004319959202021E dated 08.07.2020.</p> <p>The short levy of reverse tax as per audit objection is 0.96Cr whereas tax demanded is 0.24Cr only. The reason for difference in demand and short levy is as follows:</p> <p>The Audit Objection of C&AG Wing was related to Non remittance of the proportionate ITC and Special rebate on the opening stock as on 01.04.2013 (which subjected to the option of the remittance of the tax at the Compounded Rate without ITC and Special Rebate). The huge amount of reverse tax in the audit objection was resulted from the cumulative purchases for the financial years of both 2011-12 and 2012-13 which expressed as opening stock as on 01.04.2013. By considering proportionate opening stock for the respective years of 2011-12 and 2012-13, the huge amount in the audit objection is lowered. Detailed calculation is shown in the Penalty Order No.3210181896/2013-14 dated 27.02.2020 attached herewith.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.15</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>15. Gitanjali Life Style Ltd.</u> <u>(32110294217)</u> <u>2013-14</u> <u>CTO, III Circle, Kozhikode</u></p> <p>The total purchase value shown for the year 2011-12 for Rs.9,21,24,582.50 and 2012-13 Rs.11,06,86,656.73. The lion part of the above purchase is interstate stock transfer. Hence the dealer did not avail IPT credit. The IPT credit availed the dealer during 2012-13 only for Rs.1,880/-. Hence closing stock value for Rs.17,17,01,851/- is not attract any reverse tax under section 11(7) of the KVAT Act. For the above reasons the above audit enquiry not sustainable in the instant case.</p>

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.16	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>16. Akshaya Jewellers. (32110729659)</u> <u>2013-14</u> <u>CTO, II Circle, Kozhikode</u></p> <p>The assessment in respect of M/s Akshaya Jewellers for the year 2013-14 was completed on 31.10.2014 creating an additional demand of Rs.14,71,516/- as tax and Rs.2,57,515/- as interest. Against this order the dealer filed appeal before the Assistant Commissioner (Appeals), Kozhikode and the Assistant Commissioner (Appeals) modified the assessment as per order No. VATA 18/15 dated 10.02.2016. Thereafter the dealer filed 2nd appeal before the Hon'ble Tribunal, Kozhikode. The Hon'ble Tribunal, set aside the assessment order as per order TA 163/16 dated 30.08.2016. The department filed second appeal against VATA 18/15 dated 10.02.2016, of the Assistant Commissioner(Appeals), Kozhikode with delay condonation petition. The delay condonation petition filed by the state before the Hon'ble Tribunal, Kozhikode for the year 2013-14 has been dismissed by the Hon'ble Tribunal vide order INTP 227/2016 dated 17.02.2017. Subsequently the OT revision filed by the state against the Tribunal order TA VAT 163/2016 dated 30.08.2016 has been dismissed by the Hon'ble High Court vide order OTR No.103/2018 dated 18.02.2019. This office has sought legal opinion from Joint Commissioner Law, Ernakulam for filing SLP in this case before the Supreme Court. As per the legal opinion received from Special Govt. Pleader dated: 18/01/2024, it is advised</p>

		to comply with the order of the Hon'ble KVAT Appellate Tribunal Additional Bench, Kozhikode. As the Appellate Tribunal Additional Bench has allowed the appeal filed by the dealer, the demand is not sustainable. The Copy of all Proceedings are attached herewith.
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Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.17</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>17. M.R Jewellers. (32110754804)</u></p> <p><u>2013-14</u></p> <p><u>CTO, II Circle, Kozhikode</u></p> <p>Based on the audit objection, the assessment in respect of M/s.M R Jewellers for the year 2013-14 was completed as per order No.32110754804/-13-14 dated 08.11.2016 creating additional demand of Rs.14,058/- as tax and Rs.2,671/- as interest. The assessee remitted entire amount as per chalan No.249 dated 02.11.2016.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.18</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate. Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 didnot pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>18. Gold Palace. (32111293151)</u> <u>2013-14</u> <u>CTO, Vadagara</u></p> <p>Based on the audit objection, the assessment in respect of M/s.Gold Palace for the year 2013-14 has been completed under Section 25(1) of the KVAT Act, 2003 as per order No.32111293151/13-14 dated 30.09.2016 demanding tax Rs.1,98,550/- along with interest. An amount of Rs.3,97,118/- was demanded as penalty as per order No.32111293151/13-14 dated 28.11.2016 based on the assessment made. Revenue Recovery proceedings was initiated to collect the amount as per RRC No.2017/24/11 dated 20.01.2017. The assessee filed appeal before the appellate authority and paid Rs.1,38,756/- towards demanded tax and penalty. Against these orders, the dealer filed appeal before Deputy Commissioner (Appeals), Kozhikode. The Deputy Commissioner (Appeal) Kozhikode has modified the assessment as per VATA 2229/16 dt 18-07-2018 and as per VATA 26/2017 dated 18-07-2018 directed to limit the penalty to the tax effect subject to the modified assessment order in VATA No.2229/16 dtd 18-07-2018. Accordingly the assessment for the year 2013-14 has been revised as per order dated 03-01-2019 and the dealer has an excess of Rs.1,38,756/-.</p> <p>Subsequently the assessment in respect of the dealer for the year 2012-13 was completed as per order dated 22-03-2019 by assessing the closing stock of gold worth Rs.39,71,174/- held in the hands of the dealer in the end of financial year 2012-13 which is purchased U/s 6(2) of the KVAT Act 2003 The demand created in this case was Rs</p>

		<p>1,98,559/-.</p> <p>The excess paid Rs.1,38,756/- during 2013-14. (Rs.54,665/- as per chalan No. KL0065472622201617 dated 20-03-2017 Rs.84,091/- as per Chalan No. KL006547079201617 dated 20-03-2017) was adjusted towards the tax due for 2012-13. The balance tax Rs.59,803/- paid as per chalan No.KL4749673201920M dated 22-07-2019 under Amnesty Scheme.</p>
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Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.19	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate. Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>19. RAJADHANI GOLD (32120468256)</u> <u>2013-14</u> <u>CTO, Taliparamba</u></p> <p>M/s. Rajadhani Gold, City Square, TMC-XII/120A-E, Thaliparamba was a registered dealer bearing TIN 32120468256 engaged in the business of Gold Ornaments. The dealer had opted paying tax at compounded rate u/s. 8(f) of the KVAT Act from April 2013 onwards and filed annual return for the year 2013-14 in Form 10 DA. On verification of returns and books of accounts for the year 2013- 14, irregularities such as Non levy of purchase tax, Non forfeiture of illegal collection of tax and Non reversal of IPT/Special rebate availed on closing stock of previous year were noticed and notice u/s. 25(1) has been issued to the assessee proposing to assess the said irregularities vide notice No.32120468256/2013-14 dtd. 22.09.2016. The dealer had filed a writ petition WP(C) No.40690/2016 dtd. 19.12.2016 before the Hon'ble High Court of Kerala against the notice. The Hon'ble High Court of Kerala has issued an interim stay on 21.12.2016 until further orders and the case is now allowed as per the judgement dated 08.08.2023 by directing that the assessment order regarding purchase tax need to be passed keeping in mind the directions issued by the Hon'ble High Court in the judgement in WP(C) No.32456/2016(F) dated 10.07.2017 and connected cases. But the proposal for assessment regarding non-forfeiture of illegal collection of tax and non reversal of IPT/ Special rebate were still pending. For further proceedings a notice for personal hearing has been issued to the partners on 27-10 -2023. But the notice was returned by the postal authorities with remarks "Not Known".</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.20</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>20. Krishna Gold(32120519488)</u></p> <p><u>2013-14</u></p> <p><u>CTO, I Circle, Kannur</u></p> <p>In this case compounded order for the year 2013-14 was cancelled as the dealer has not conducted business upto a full year as on 01.04.2013. Assessment for the year 2013-14 was completed as per order dated 16.12.2015. As the option for compounding for the year 2013-14 was cancelled, the non levy of reverse tax on the closing stock for the year 2012-13 is not sustainable.</p>

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.21	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>21. Pallithara Jewellers(32120566784)</u> <u>2013-14</u> <u>CTO, I Circle, Kannur</u></p> <p>In this case compounding order for the year 2013-14 issued on 07.06.2013 was cancelled as per the order of Deputy Commissioner, SGST, Kannur. Regular assessment for the year 2013-14 was completed as per order dated 11.02.2016 and demand created for Rs.15,38,029/- along with interest and served to the dealer on 26.03.2016, which is stayed by Hon'ble High court as per Order No.WP(C) No.8773/16 (b) dtd:16.03.2016. As the dealer is not compounded during the year 2013-14 non levy of reverse tax on the closing stock of 2012-13 is not sustainable.</p> <p>The Hon'ble High Court of kerala disposed the WP(C) [WP(C) No 8773 of 2016 dated 02-08-2023]. As per the direction of Hon'ble HC, a fresh notice for proposal for cancellation of compounding order was issued to the assessee on 19.10.2023 and duly acknowledged. The assessee filed their reply on 13.11.2023. The reply filed by the assessee is not satisfactory which was already recorded by the assessing authority. An opportunity for personal hearing was also given on 12.02.2024. But the assessee has no further explanation to offer in this regard. A letter was submitted to the Joint Commissioner, Taxpayer Services Circle, Kannur, requesting the permission for cancelling the compounding order for the year 2013-14. The Joint Commissioner, Taxpayer Services, Kannur vide Letter No.JC KNR-TPS/369/2024-B2 Dtd. 23.04.2024 given permission for the cancellation of compounding order for the year 2013-14 after giving an</p>

		<p>opportunity for personal hearing before cancelling the compounding order. Accordingly, a personal hearing was posted on 21.06.2024 as per notice dated 05.06.2024. The assessee filed writ petition WP(C) No.23368/2024 before the Hon'ble High Court of kerala & the case is posted on 08.08.2024.</p>
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Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.22	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate. Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>22. Prince jewellery(/32121007222)</u> <u>2013-14</u> <u>CTO, Kuthuparamba</u></p> <p>M/s. Prince Jewellery, Peravoor is a registered dealer on the rolls of this office bearing TIN 32121007222 has opted to pay compound tax under section 8(f) during the year 2013-14. The assessment in respect of M/s. Prince Jewellery, Peravoor for the year 2013-14 completed as per order No.32121007222/2013-14 dated 13.02.2017 as follows</p> <p>Total unregistered purchase to U/s 6(2) : 55,99,854/- Tax effect @ 5% : 2,79,993/- Interest due : 95,198/- Total : 3,75,191/-</p> <p>Aggrieved by this order, the assessee filed appeal before Deputy Commissioner (Appeals) II State GST Department, Kozhikode and appellate authority modified the appeal directing the assessing authority to take value of closing stock as on 31.03.2013 as in the trading account filed by him. The dealer reported in Form 53 stock inventory filed by him as the value of closing stock to Rs.55,99,854/-. The contention of the appellant is that he has taken the selling value as value of gold in Form 53 but trading account reflected the actual value of closing stock as on 31.03.2013. While considering the opening stock for the year 2012-13 as 1513013 and old gold purchase for that year is 6,95,595/-, closing stock would be naturally be 21,55,065/- after the sale of gold for an amount of Rs.1,94,777/-. So it is evident that stock value reported in Form 53 filed</p>

		<p>by the appellant is a clerical error.</p> <p>In the above circumstances the Assessment for the year 2013-14 modified as per order No. 32121007222/2013-14 dated 28.02.2019 to take value of closing stock as on 31.03.2013 of Rs. 21,55,065/-.</p> <p>The entire amount paid by the dealer. The payment details are as follows.</p> <p>Total due as per modified order: Rs.1,46,544/- (Tax-Rs.1,07,753/-, Interest: Rs.38,791/-)</p> <p>Amount Paid(as per chalan No. KL00656104420162017M dated 21.03.2017) :Rs.75,100/-</p> <p>Balance :Rs.32,653/- The dealer opted Amnesty Scheme with one time payment.</p> <p>Balance amount paid under Amnesty Scheme : Rs.13,062/- (40% of Rs.32,653/- as per chalan no.KL013153083202021E dated 19.11.2020)</p> <p>Balance Tax (60%) and Interest are waived under the scheme.</p> <p>A copy of Assessment order, Appellate order, Trading account Modified Assessment order and Copy of chalan are enclosed herewith.</p>
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Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.23	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>23. Sky Gold Kuthuparamba(32121016233)</u> <u>2013-14</u> <u>CTO, Kuthuparamba</u></p> <p>Assessment for the year 2013-14 completed as per order No.32121016233/2013-14 dated 10.06.2020 demand created ₹ 29,26,031/- (illegal collection of tax: ₹1,86,879/- + reversal of tax: ₹ 14,94,748/-, interest: ₹12,44,404/-). Dealer opted Amnesty scheme and paid ₹6,72,651/- (40% ₹ 1,86,879 + ₹ 14,94,748/-) as per Chalan No. KL206697202021E dated 29.12.2020.</p>

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.24	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>24. Sultan Gold Classic Pvt. Ltd.</u> <u>(32130262405)</u> <u>2013-14</u> <u>CTO, Special /Circle, kasargode</u></p> <p>The assessee has started business w.e.f. 20.07.2011. The closing Stock of Bullion for Rs.70,39,676/- @ 1% effected with local purchases is only and reverted as reverse tax for Rs.70,397/-. The assessee has purchased intra state movement of gold ornaments and not claimed any IPT for the year 2011-12. The opening stock 2012-13 for Rs.16,97,07,890/-, Local Purchases for the year 2012-13 for Rs.49,80,414/- and inter state purchases for the year 2012-13 for Rs.89,49,905/- is included in the closing stock for the year 2012-13. The closing stock for the year 2012-13 is in the ratio 170:5:9 worked out from opening stock of gold, local purchases, and interstate purchases respectively.</p> <p>Hence the closing stock on local purchases of gold is arrived as follows. $124444300 \times 5/184 = 3381639.00$ The assessee has claimed for Rs.52,621/- as Input tax credit on local purchase of gold ornaments for Rs.49,80,414/-. The tax rate @ 1.057 is claimed by the assessee instead of 5%. Hence the assessee has reverted as reverse tax for Rs.33,81,639/- @1.057%=35744. In the case of Precious Stone the assessee has reverted as reverse tax on closing Stock of Rs.1,09,72,194/- @1%. In the Case of gold ornaments the assessee has not claimed any special rebate for Rs.33,98,632/- but the assessee has closing stock worth Rs.39,27,760/- and a difference of</p>

		<p>Rs.5,29,128/- special rebate claimed has been reverted as reverse tax @ 5%. In the case of closing stock on silver ornaments, old silver, Copper for Rs.1,45,175/- has been reverted as reverse tax @ 5%. The closing stock on watches for Rs.4,10,000/- is not reversed since the item has not been included U/s 8(f) of the KVAT Act. Additional demand has been created for Rs.4,41,753/- including interest. The tax has been paid under amnesty scheme 2019 vide challan no.KL007670477201920M dated 26.09.2019. The assessment order and copy of challan enclosed herewith for ready reference.</p>
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Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.25	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>25. Ranjees Gold Palace(32130605384)</u> <u>2013-14</u> <u>CTO, Hosdurg</u></p> <p>Assessment completed in respect of M/s.Ranjees Gold, Palakkunnu TIN 32130605384 for the year 2012-13 vide order No.32130605384/12-13 dtd. 29.12.2016 creating additional demand of Rs.1,44,697/-.</p> <p>As per the direction from Hon'ble High Court of Kerala, the Kerala Value Added Tax Appellate Tribunal Additional Bench, Kozhikode vide INTP No. 313/17 IN TA (VAT) 332/2017 dtd. 05.09.2018 stayed the recovery proceedings against dealer till the disposal of the appeal with a direction to remit 20% of the demanded amount and furnish security for the balance amount. The dealer complied with the above direction remitting Rs.22,000/- vide chalan No.KL009776595201819M dtd. 28.12.18 and furnished security for the balance amount.</p> <p>The Hon'ble Tribunal remanded the impugned assessment proceedings to the assessing authority on the following grounds.</p> <p><i>"The assessee had enrolled under KGST Act, in the year 2003 when they had a stock of 9.233 Kgs of goods, assessment under KGST Act was completed for the year 2003, as on 31.03.2005 they had closing stock of goods valued Rs.35,24,618 which was transited to new regime of KVAT Act on</i></p>

		<p>which no tax credit was allowed, they had not availed any Input tax credit or Special rebate from 2005-06 to 2012-13, the proposal to reverse tax was made without verifying their returns and closing stock inventory for those years etc. This bench of the Tribunal is pleased to make it clear that as per the legal provisions discussed foregoing paras, the Input tax credit/Special rebate availed by the Appellant during the periods of their payment of tax under regular scheme (from 2005-06 to 2012-13) and also to the extent it related to the Closing stock held on 31.03.2013 can only be reversed. If the Appellant had not availed any Input tax credit/Special rebate during the periods from 2005-06 to 2012-13 (as claimed by the Appellant), the tax due on the Closing stock held on 31.03.2013 shall not be reversed".</p> <p>In compliance to the Tribunal Order, assessment modified with excess payment.</p> <p>(Copy of the Tribunal order and modified order enclosed herewith for ready reference).</p>
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Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.26	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>26. Minar Gold Pvt. Ltd(32130646931)</u> <u>2013-14</u> <u>CTO, Hosdurg</u></p> <p>The assessment has been completed as per the Order No. 32130646931/12-13 dated 17.11.2016 and creating additional demand 73.55 lakhs. Arrear is under revenue recovery proceedings before the Assistant commissioner (Arrear Recovery), Kasaragod, (copy of Assessment Order attached)</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.27</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>27. M/s Bhima Jewellers,</u> <u>(32140738449)</u> <u>2013-14</u> <u>CTO, Wayanad</u></p> <p>M/s. Bhima jewellers, Sulthan Bathery, a registered dealer had opted to pay tax under Section 8 (f) (I) of the Act for the first time during the year 2013-14 fixing compounded tax at 150% of the tax paid during the previous year. The assessment for the year 2012-13 was revised by levying reverse tax on the closing stock on which they had availed input tax credit. Therefore the tax payable for the year 2013-14 was also refixed based on the tax payable for the year 2012-13 as per the order dtd. 22.04.2016</p> <p>Aggrieved by this order the dealer filed appeal before the Deputy Commissioner (Appeals) - I, Kozhikkode. And the appellate authority dismissed the appeal and upheld the order of the assessing authority. Subsequently, the dealer filed second appeal before the Kerala Value Added Tax / Agricultural Income Tax and Sales Tax Appellate Tribunal, Additional Bench, kozhikode, and the honorable tribunal, set aside the original order stating that there is no need for refixing the compounded tax payable for the year 2013-14 and directed the assessing authority to demand reverse tax for the year 2013- 14.</p> <p>The assessing authority, after verifying the records and the request of the dealer to rectify the assessment, issued order under section 66 of the KVAT Act 2003 fixing balance tax</p>

		<p>payable of ₹ 81,995/- with interest @ 84% ₹ 68,876/-.</p> <p>The dealer had opted for settlement of arrears on amnesty scheme 2021 but no payment has been made. Now the dealer is directed to settle the arrears in new amnesty scheme and agreed.</p>
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Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.28</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate. Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>28. M/s. Bhima Jewellers Diamonds</u> <u>(TIN.32010186328)</u> <u>2014-15</u> <u>CTO, Special Circle, Thiruvananthapuram</u></p> <p>In this case final assessment was completed as per order dated 25.03.2021 of the Deputy Commissioner-I, Special Circle, Thiruvananthapuram. Re-determination of compounded tax for the year 2014-15 on the basis of the enhanced compounded rate consequent on the additional demand created for the year 2013-14. Accordingly, 8(f) liability for the year 2014-15 revised and final assessment order was thus completed. The dealer has executed security bond in Form No.6 on 20.04.2021 for differential amount of disputed tax as per the judgment dated 30.03.2017 in WP(C)No.39633/2016.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.29</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>29. M/s. Bhima Silver Palace</u> <u>(32070321538)</u> <u>2014-15</u> <u>CTO, Special Circle II, Ernakulam</u></p> <p>The assessee has opened compounding scheme commencing from the succeeding year, 2014-15 and paid compound tax under section 8 of the KVAT Act with respect to the principal place of business. But the branch was not competent to opt compounding scheme and therefore remained regular scheme under section 6. Therefore closing stock value of 2013-14 with respect to the principal place of business only considered for the purpose of rejection of input tax credit. The total closing stock value with respect to the year 2013-14 is 5,05,64,195/- from the above closing stock value with respect to head office is Rs.2,98,28,581/-. Here the whole amount of input tax credit claimed by the assessee is not rejected, but rejected the portion only with respect that pertaining to be levied under section 8. The closing stock value of head office (Principal place of business) only considered for the purpose of rejection of input tax credit. The sales with respect to the closing stock value couldn't be utilized under section 6, but it differed for effecting sales as per compounding scheme. On perusal of section 11 and 12 , it is clear that input tax credit is allowable only with respect to the sales effecting under</p>

		<p>section 6 (1). While interpreting a Statute, it should be construed within the four corners of the Statute. On the combined reading of the provisions with respect to input tax credit, levy, compounding scheme etc, it can be ascertained that no input tax credit can be availed with respect to the sales effected through compounding scheme. Therefore it is clear that input tax credit availed by the dealer which disclosed as closing stock and unsold under section 6(1) is to be rejected. As per these defect the assessment completed for the year 2013-14 on 28.05.18 and created an additional demand of Rs. 22,22,229/-.</p>
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Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.30	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>30. Chiriyankandath Jewellery</u> <u>(32080216702)</u> <u>2014-15</u> <u>CTO, Special Circle, Thrissur</u></p> <p>Considering the audit objection, the notice u/s.25(A) dated 19.01.2017 was already issued to the assessee. Thereafter, a notice u/s.95 of the KVAT Act dated 11.03.2022 was issued to the dealer on 11.03.2022 due to the change of incumbent of the office. On receipt of the notice, the assessee filed reply on 14.03.2022. Subsequently, completed the assessment as per order no. 32080216702/2014-15 dated 25.03.2022 creating additional demand of Rs.75,26,708/- as tax and Rs.63,22,435/- as interest. The assessee approached the Honourable High Court of Kerala. As per judgment in WP(C) 14553/2022 dated 26.04.2022, stay granted by the Honourable High Court. Against the assessment order the assessee filed appeal before the JC(Appeals) Thrissur and the appellate authority directed to modify the assessment order. The department filed second appeal against the appellate order, dated 11.10.2023.</p>

265

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.31	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>31. Dubai Gold House(32120404345)</u> <u>2014-15</u> <u>CTO, Taliparamba</u></p> <p>The dealer opted to pay compounded tax for the year 2013-14 and 2014-15 did not paid reverse tax on the closing stock for the year 2012-13 and 2013-14 respectively. Short levy of tax and interest worked out to Rs.4,84,038/-.</p> <p>The assessee filed compounding application(online) for the year 2014-15 on 09.09.2014. As the compounding application was delayed, the same was rejected. During the year 2014-15, the assessee had filed returns in Form 10. Hence the defect pointed out by the audit on non reversal of IPT/Special Rebate on the closing stock for 2013-14 is not sustainable.</p> <p>It is submitted that the compounding was permitted for the first time from 2015-16 only, the assessment for non reversal of IPT/Special Rebate on the closing stock for the year 2014-15 has been completed.</p> <p>Assessment completed vide Order No. 32120404345/14-15 dated 11.01.2017 demanding reverse tax Rs.4,20,085/- with interest Rs.30,333/-. The demand has been advised for RR and the assessee has remitted 20% Rs.88,243/- vide Chalan No. 6416048/03.10.2017. The dealer opted Amnesty Scheme and settled the arrears. The details are given below:</p> <ol style="list-style-type: none"> 1. KL008115289201920M dated 04.10.2019 for Rs.50,000/- 2. KL010827675201920M dated 26.11.2019 for Rs.50,000/- 3. KL012470326201920M dated 30.12.2019 for Rs.50,000/- 4. KL015253813201920M dated 25.02.2020 Rs.50,000/- 5. KL011641234202021E dated 04.11.2020 for Rs.54,428/-.

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.32	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>32. Bhavana Jewellery(32120504875)</u> <u>2014-15</u> <u>CTO, I Circle, Kannur</u></p> <p>M/s.Bhavana Jewellery opted compounding for the year 2014-15. Hence the dealer is liable to reverse the tax on the closing stock value for the year 2013-14. The closing stock value reported for the year 2013-14 is Rs.14,73,000/-. The Tax amount to be reversed is Rs.73,650/-. Hence sustainable.</p> <p>Assessment has been completed as per order no.32120504875/2013-14 dated 26.11.2017 with tax Rs.73,650/- and Interest Rs.31,670/- (Total:Rs.1,05,320/-). The Dealer filed Appeal and Tax Paid for Appeal Rs.14,730/- as per challan No:KL002437462201819M dated 06.06.2018, and Appeal was dismissed. Further dealer had opted Amnesty Scheme 2019 and remitted balance Tax amount Rs.58,920/- (Rs.73,650/- - Rs.14,730/-) as per Challan No.KL013137530201920M dated 14.01.2020 for Rs.29,460/- and Challan No.KL016559707201920M dated 23.03.2020 for Rs.29,460/-. Copy of demand order and challan are attached here with for ready reference.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.33</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate. Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>33. Parampuzhayil Jewellers(32121036077)</u></p> <p><u>2014-15</u></p> <p><u>CTO, Special Circle, Kannur</u></p> <p>Assessment completed as per order dated 28.02.2017 creating additional demand of Rs. 42,37,420/- the High Court stayed the demand as per WP © 11840 of 2017 dated 11.04.2017. Case still pending before the High Court.</p>

Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.34	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate. Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>34. Bindu Jewellery(32130236272)</u> <u>2014-15</u> <u>CTO, Special Circle, Kasargod</u></p> <p>Audit enquiry observed that the dealer opted compounding scheme of gold for the year 2014-15 did not pay the reverse tax on the closing stock for the year 2013-14 resulted in short levy of Rs.1,87,46,206/-. On verification of the assessment records it is revealed that the audit team worked out the short levy of reverse tax @5% on the entire closing stock, it is not according to the law. The closing stock includes interstate purchases, watches, and also bullion purchases from local registered dealers which is taxable dealers @1% only. The assessee opted compounding u/s 8(f) of the act for the year 2010-11 and not compounded during the year 2011-12 to 2013-14. They have purchased bullion at tax rate @1% from the intra state movement of goods for the year 2012-13 and 2013-14 to manufacture gold ornaments. There is no local purchase effected for the year 2011-12. The assessee claimed IPT for Rs.2,30,791/- and Rs.4,24,586/- for the year 2012-13 and 2013-14 respectively. The assessee has huge closing stock worth Rs.11,94,02,588/- as gold ornaments, silver and old gold ornaments etc for the year 2013-14. The IPT claimed for the proceeding years 2012-13 and 2013-14 for Rs.6,55,377/- has been included in the closing stock of gold ornaments for the year 2013-14. ITC of closing stock of old gold ornaments for Rs.2,78,306/- @5% was reversed u/s 11(7) and 12(4) of the Act. The assessing Authority completed the assessment u/s 25A vide order no.32130236272/2013-14 dtd. 02.08.2019 created demand of Rs.8,36,615/-(tax:Rs.6,69,292/- + int: Rs.1,67,323/-) (Copy attached). The dealer remitted the amount under Amnesty Scheme vide challan number KL007553093201920M dtd 01.10.2019.</p>

Para No.	Gist of the case	Present position
<p>2.4.3.5(3)</p> <p>Sl.No.35</p>	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>35. Riches Jewel Arcade (32140465165)</u></p> <p><u>2014-15</u></p> <p><u>CTO, Vythiri, Kalpetta</u></p> <p>The audit was raised on the finding that the dealer, M/s. Riches Jewel Arcade, Kalpetta, who had opted to pay compounded tax for the year 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively and the same resulted in short levy of Rs.18.94 crores.</p> <p>Accordingly, to verify the above aspect, a notice was issued to the dealer. On receipt of the same the dealer appeared and filed their contentions. Verified the detailed reply filed by them and the following facts are observed.</p> <p>“Reverse Tax means that portion of input tax of the goods for which credit has been availed but such goods remain unsold at the closure of business or are used subsequently for any purpose other than resale or manufacture of taxable goods or execution of works contract or use as containers or packing materials of taxable goods within the state”.</p> <p>The dealer has not closed their business nor they have used the IPT suffered goods for any purposes other than resale, manufacture of taxable goods nor used for works contract nor used as containers nor packing materials of taxable goods within the state. Hence demanding reverse tax is not applicable in this case as the amount demanded would not come under the purview of the definition of reverse tax under the KVAT Act 2003.</p> <p>Further, as per section 11(7) of the KVAT Act 2003, if goods in respect of which IPT credit has been availed, are subsequently used for the</p>

		<p>purpose in relation to which no IPT is allowable, the IPT availed in respect of such goods shall be reverse tax. The dealer has not used the goods in respect of which IPT has been availed for any purpose in relation to which, no IPT is allowable. During the year 2014-15, the dealer has compounded the payment of tax u/s 8(f) and during this year, they have not claimed or deducted any special rebate from the compounded tax. Hence disallowance of special rebate u/s 12(2) of the KVAT 2003 is also not applicable here. So also, Sec 12(14) is not applicable in their case as they have not subsequently used for the purpose in relation which no special rebate is allowable.</p> <p>However a pre-assessment notice U/s.25(A) of the KVAT Act 2003 has been issued to the dealer to recover the tax on closing stock.</p>
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Para No.	Gist of the case	Present position																								
2.4.3.5(3) Sl.No.36	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate. Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>36. Emerald Gold Souk India (32040294344)</u> <u>2012-13</u> <u>CTO, Special Circle, Alappuzha</u></p> <p>M/s. Emerald Gold Souk India Pvt. Ltd. is a dealer on the rolls of Office of the Deputy Commissioner, Special Circle, Alappuzha bearing TIN 32040294344 and filed return for the year 2012-13. The dealer was permitted to pay tax at compounded rate for the first time during 2012-13 and the tax was fixed Rs. 50,06,987/-. During 2011-12 the dealer having a closing stock of Rs.14,15,45,729/- for which the IPT availed and did not pay reverse tax on the closing stock for the year 2012-13.</p> <p>Based on the audit objection, the Assessing Authority completed the assessment vide order Dtd. 30.06.2016 as follows:-</p> <table><tr><td>Tax paid for 2010-2011 :</td><td>4,26,014.00</td></tr><tr><td>Tax paid for 2011-12 :</td><td>32,85,064.00</td></tr><tr><td>Ineligible portion of IPT and special rebate detected for 2011-12 :</td><td>1,305,770.00</td></tr><tr><td>-----</td><td></td></tr><tr><td>Total tax to be paid for 2011-12 :</td><td>45,90,834.00</td></tr><tr><td>Compounded tax for 2012-13</td><td></td></tr><tr><td>150% of Rs.45,90,834/- :</td><td>68,86,251.00</td></tr><tr><td>Tax already paid :</td><td>50,06,987.00</td></tr><tr><td>Balance Payable :</td><td>18,79,264.00</td></tr><tr><td>Interest due @1% per month :</td><td>7,51,706.00</td></tr><tr><td>-----</td><td></td></tr><tr><td>Total tax and interest payable :</td><td>26,30,970.00</td></tr></table> <p>For filing appeal before the First Appellate Authority, the dealer paid Rs.5,26,200/- vide Chalan No.283 Dated.15.10.2016 being 20% of the above demand and filed appeal.</p> <p>The Appellate authority, Deputy Commissioner (Appeals)II, Kollam ordered to modify the assessment with the following remarks:-</p> <p><i>“As per Section 12(4) special rebate availed shall be</i></p>	Tax paid for 2010-2011 :	4,26,014.00	Tax paid for 2011-12 :	32,85,064.00	Ineligible portion of IPT and special rebate detected for 2011-12 :	1,305,770.00	-----		Total tax to be paid for 2011-12 :	45,90,834.00	Compounded tax for 2012-13		150% of Rs.45,90,834/- :	68,86,251.00	Tax already paid :	50,06,987.00	Balance Payable :	18,79,264.00	Interest due @1% per month :	7,51,706.00	-----		Total tax and interest payable :	26,30,970.00
Tax paid for 2010-2011 :	4,26,014.00																									
Tax paid for 2011-12 :	32,85,064.00																									
Ineligible portion of IPT and special rebate detected for 2011-12 :	1,305,770.00																									


Total tax to be paid for 2011-12 :	45,90,834.00																									
Compounded tax for 2012-13																										
150% of Rs.45,90,834/- :	68,86,251.00																									
Tax already paid :	50,06,987.00																									
Balance Payable :	18,79,264.00																									
Interest due @1% per month :	7,51,706.00																									

Total tax and interest payable :	26,30,970.00																									

		<p>reversed in two occasions (1) the goods are after availing special rebate subsequently used for purposes other than those specified in the said sub section or has remained as unsold at the time of closure of business. First occasion is relevant in the impugned case. Purposes specified in the sub section are (1) for sale (2) for use in the manufacture of taxable goods (3) use in the execution of works contract (4) for use as containers or as packing materials for the packing of taxable goods in the state.</p> <p>So special rebate shall be reversed in situation where the goods are subsequently used for purposes other than above purposes. Compounding option of tax remittance is not mentioned there. In compounding scheme also goods are for resale. The word 'for resale' is an allowable condition for availing special rebate. So my feeling is that special rebate cannot be reversed on the closing stock when dealers are opting compounding for the first time. But special rebate is not available for the unregistered purchase made during the compounding year. But Input tax availed should be reversed on closing stock value when opted for compounding as 11(4) specifically provides denial of Input tax in situations where Input tax is not eligible. If opt compounding Input tax is not eligible. So the assessing authority is directed to disallow the Input tax on the closing stock as on 31.03.2012 only and modify the order accordingly."</p> <p>So in obedience to the order of the Appellate Authority, the Assessing Authority modified the order vide Order No.32040294344/2012-2013 Dated 15.01.2018 as follows:-</p> <p>Tax paid for 2011-12 : 32,85,064.00</p> <p>Ineligible portion of IPT detected for 2011-12 : 8,05,486.00</p> <p>Total tax to be paid : 40,90,550.00</p> <p>Compounded Tax for 2012-13 (150% of 40,90,550/-) : 61,35,825.00</p> <p>Tax paid as per return : 50,34,720.00</p> <p>-----</p> <p>Balance : 11,01,105.00</p> <p>Interest upto 10/2016 : 4,73,475.00</p> <p>-----</p> <p>Total : 15,74,580.00</p>
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		<p>Less: Paid as per chalan No.283/24.10.2016 : 5,26,200.00</p> <p>-----</p> <p>Balance : 10,48,380.00</p> <p>Interest due from 11/16 to 01/18 : 1,57,257.00</p> <p>-----</p> <p>Total due : 12,05,637.00</p> <p>For filing second appeal before the Hon'ble Appellate Tribunal, Additional Bench Kottayam the dealer paid an amount of Rs.2,09,680/-, being 20% of the tax due vide modified order, vide chalan No.KL011678559201718M Dated.13.03.2018 and filed second appeal. But while introducing the Amnesty Scheme, the dealer withdrawn the second appeal and opted amnesty and remitted the dues as follows:</p> <p>Rs.5,53,211/- vide e chalan No.KL004320595202021E Dated.08.07.2020.</p> <p>So the dealer paid the following amount in total:</p> <p>Tax and interest vide chalan No.283/24.10.2016 : 5,26,200.00</p> <p>Tax paid vide chalan No. KL011678559201718M Dated.13.03.2018 : 2,09,680.00</p> <p>Tax paid vide e chalan No. KL004320595202021E Dated.08.07.2020 : 5,53,211.00</p> <p>Total remitted : 12,89,091.00</p> <p>While completing the assessment under section 25(1) of the Act, there is no provision to impose penalty as pointed out in the audit report.</p> <p>Assessment order Dated 30.06.2016, Appellate order Dated.31.10.2017, modified order Dated.15.01.2018 are enclosed herewith for perusal.</p>
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Para No.	Gist of the case	Present position
2.4.3.5(3) Sl.No.37	<p>Section 11(7) and 12(4) of the KVAT Act stipulates that if goods in respect of which input tax credit/special rebate has been availed of are subsequently used fully or partly, for purposes in relation to which no input tax credit/special rebate is allowable under the section, the input tax credit/special rebate availed in respect of such goods shall be reversed. Section 11(1) of the Act stipulates that registered dealer liable to pay tax under Section 6(1) is eligible for input tax (IPT) credit. As per Section 12(2), dealers paying tax under Section 8 are not eligible for special rebate.</p> <p>Audit test checked records of gold dealers and observed that in 24 offices, 35 dealers who opted to pay compounded tax for the years 2013-14 and 2014-15 did not pay reverse tax on the closing stock for the years 2012-13 and 2013-14 respectively. This resulted in short levy of tax, interest and penalty of 80.89 crore.</p>	<p><u>37. Gehana Gold Palace(32140790392)</u> <u>2009-10</u> <u>CTO, Sulthanbathery</u></p> <p>Assessment for the year 2009-10 completed as per order No.321407 90392/2009-10 dated 26.02.2016 of the Inspecting Assistant Commissioner, Wayanad. Aggrieved by this order the dealer preferred an appeal before the Hon'ble High Court of Kerala (No WP(C) 9425/2016 and the appeal was disposed of by quashing the assessment order for the year 2009-10 stating that with reference to the assessment year 2009-10, Pre -assessment notice has been issued only on 20.01.2016 which is beyond the period of limitation as prescribed under section 21 (1) of the KVAT Act 2003.</p>


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APPENDIX III

Appendices from AG's Report

Appendix - I

(Ref: Paragraph 1.7.3)

Statement showing details of Special circles and Works Contract Offices where non production of files were noticed.

Sl. No.	Name of office	Year in which it was to be audited	Number of assessment cases not submitted		
			KGST	VAT	Total
1	CTO, Special Circle, Thiruvananthapuram	2015-16	24	109	133
2	CTO, Special Circle, Kollam	2015-16	0	28	28
3	CTO, Special Circle, Kottarakara	2014-15	0	86	86
		2015-16	7	62	69
4	CTO, Special Circle, Kottayam	2015-16	0	20	20
		2014-15	0	13	13
5	CTO, Special Circle, Palakkad	2015-16	0	12	12
6	CTO Special Circle, Malappuram	Up to 2014-15	0	162	162
		2015-16	0	18	18
7	CTO, Special Circle, Mattancherry	2015-16	0	12	12
8	CTO Special Circle I, Ernakulam	2015-16	0	58	58
		Up to 2014-15	145	36	181
9	CTO, Special Circle II, Ernakulam	2015-16	10	0	10
		2014-15	0	47	47
10	CTO, Special Circle III, Ernakulam	2015-16	0	34	34
		Up to 2014-15	41	329	370
11	CTO, Special Circle, Perumbavoor	2015-16	0	58	58
		2011-12	32	0	32
12	CTO, Special Circle, Thrissur	2015-16	0	19	19
13	CTO, Special Circle I, Kozhikode	2015-16	0	13	13
		2012-13	0	26	26
		2011-12	0	3	3
		2010-11	0	3	3
		2009-10	0	2	2
		2008-09	0	7	7
14	CTO, Special Circle II, Kozhikode	2015-16	0	9	9
15	CTO, Special Circle, Kannur	2015-16	0	14	14
16	CTO, Special Circle, Kasargode	2015-16	0	12	12
17	CTO, Special Circle, Thodupuzha	2015-16	0	5	5
18	CTO, Special Circle, Alappuzha	2015-16	48	73	121
19	CTO, (WC<), Kollam	2015-16	0	2	2
20	CTO, (WC<), Pathanamthitta	2015-16	0	37	37
		2014-15	0	18	18
21	CTO (WC<), Palakkad	2012-13	0	2	2
		2013-14	0	21	21
		2014-15	0	13	13
		2015-16	0	8	8
22	CTO (WC<), Malappuram	2015-16	0	18	18
23	CTO, (WC<), Mattancherry	2015-16	4	34	38
		Up to 2014-15	65	135	200
24	CTO, (WC<), Ernakulam	2014-15	0	255	255
		2013-14	0	341	341
		2015-16	0	17	17

Sl. No.	Name of office	Year in which it was to be audited	Number of assessment cases not submitted		
			KGST	VAT	Total
25	CTO, (WC<), Thrissur	2014-15	0	59	59
		2015-16	0	10	10
26	CTO, (WC<), Alappuzha	2015-16	0	8	8
		2014-15	0	20	20
27	CTO, (WC<), Kannur	2015-16	0	81	81
	Total		376	2,349	2,725

Appendix - II

(Ref: Paragraph 1.7.3)

Statement showing details of files not produced, circle/division with names of heads of offices

Name of office	No. of files /Name of Head of office									
	2011-12		2012-13		2013-14		2014-15		2015-16	
	KGST	VAT	KGST	VAT	KGST	VAT	KGST	VAT	KGST	VAT
CTO, Special Circle Kollam	Ajavaghosh Kumar		Pratibha Jnanasundram		M. Gopal Krishnan		Belraj Kumar G.		M. Gopalakrishnan (AC)	
			0	37	0	167		251	0	28
CTO Special Circle, Thiruvananthapuram	Pratibha Jnanasundram		LS. Sree Kumari		Pratibha Jnanasundram		Suresh Kumar S. Manacaud		Suresh S Manacaud (AC), Mohammed Shafeer (AC), Sree Bindu (AC)	
	32	108	86	394	0	344	70	179	24	109
CTO Special Circle, Kannur	K. Sivaraman (AC)		T.K. Ravendran (AC)		T.K. Ravendran (AC)				Chippy Jayan (AC-I)	
	0	34		33		19			0	14
CTO Special Circle (Produce), Mattancherry	P.D Unnikrishnan Nair (AC)		P.D Unnikrishnan Nair (AC), K. Sugathan (AC)		K. Sugathan (AC), E.P. Chandra babu (AC)					
	274	44	271	1	318	61			0	0
CTO Special Circle, Thrissur	M.K. Sugathan (AC)		M.K. Sugathan (AC)		MG. Remadevi (AC)				A.V. Suresh (AC)	
			0	4	3	3	8	3	0	19
CTO, Special Circle II, Ernakulam	H. Muhammed Basheer (AC), S. Sivankutty (AC)		Sivankutty (AC)		K.P. Zelina (AC)		Sivankutty (AC), K.P. Zelina (AC)		Zelina KP (AC)	
	10	31	10	58	0	76	12	150	10	47
CTO Special Circle III, Ernakulam	Sathish Kumar R.K. (AC), P.O. Thomas (AC)		Valsalapani (AC)		V.G. Umadevi (AC)		V.G. Umadevi (AC)		BT Vijayamohan (AC)	
	220	28	220	28	0	27	0	370	41	363

CTO Special Circle, Malappuram	M. Gopala Krishana P. Narayanan Kutty		P. Narayanan Kutty		P. Narayanan Kutty		B. Arun		K. Abdullathheef NP Natarajan	
	158	134	151	121	0	52	158	4	0	180
CTO Special Circle, Palakkad	K.C. Chandran		K.G. Rama Bai		V.S. Satyanarayan		R. Rajesh		B.N. Jayakumar, K. Abdullathheef, PA Padmaja, Sabia Bhannu A	
CTO (WC<), Ernakulam	50	57	45	12	0	42	0	15	0	12
	M.P. Sajjan (AC) N.R. Raghunathan (CTO)		M.K. Hajra (AC), K.A. Shahul Hameed, BT. Varghese, H. Mohammed Basheer		P.K. Sathesh Kumar (AC)		V.A. Raghunathan (AC), Raji. S. Anil, V. Nair, Anil Kumar A., Bazil I. Kizhakeaden, C.J. Johny, C.K. Premji, M.O. Johnson,		Anil V Nair (AC)	
CTO, Vadakara	5	77	5	84	0	394	0	736	0	613
	M. Suresh Babu		TM. Assainar		G. Suchithra		K.K. Krishnan		-	
CTO V Circle, Kozhikode	279	-	270	-	270	11	21	30	0	0
	Bovas. K CTO		P.P. Chandran CTO		G. Lorraine CTO		Liviy Jacinthia CTO		M Sujithlal (CTO)	
CTO (WC<), Mattancherry	10	-	270	-	-	34	0	20	0	30
	S. Omanakutran (CTO)		M.P. Sajjan (AC), N.R. Raghunathan (CTO)		A.V. Sallia (AC) N.R. Raghunathan (CTO)		N. Santhoshkumar, CTO, Johnson Chacko, CTO		N Santhosh Kumar (CTO)	
	72	200	65	177	19	174	0	226	69	169

Appendix – III

(Ref: Paragraph 1.9)

Details of Performance Audits featured in the Reports for the last five years and their status

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
31 March 2011	Compounding Schemes in Commercial Taxes Department	3	The Government may consider <ul style="list-style-type: none"> • review of works contract compounding by a senior/supervisory officer • prescribing proper registers of implement IT systems to watch the details of dealers who have opted for payment of tax under the compounding scheme • conducting periodic inspection of metal crusher units to ascertain the number of units in the possession of the assessee from time to time. 	PA was examined by PAC in February 2015. Report of PAC has not been received.
	Utilisation of declaration forms in inter-state trade	2	The Government may consider <ul style="list-style-type: none"> • issuing instructions regarding the checks to be carried out before accepting declarations for allowing concession/exemption • strengthening the internal control mechanism. 	PA was examined by PAC in February 2015. Report of PAC has not been received.
	Levy and collection of stamp duty and registration fee	7	The Government may <ul style="list-style-type: none"> • implement a time bound action plan to settle outstanding undervaluation cases • consider creating awareness amongst public officers regarding their responsibility in respect of under stamped instruments produced before them • consider an Economic Intelligence Unit to obtain data and verify that documents have been registered when due for the right value • consider an amendment to the Kerala Stamp Act to include provision for collection of stamp duty on ad-valorem basis on issue of shares and levy of stamp duty on license agreements as lease. • direct registering officers to insist on production of agreements relating to purchase/sale of flats at the time of registration • making internal audit/inspection of sub offices mandatory and up to date • inspection of public offices to plug leakage of revenue. 	PA was examined by PAC in September 2014. Report of PAC has not been received.
	Computerisation in motor vehicles department	3	The Department may <ul style="list-style-type: none"> • replace the existing system of storing data at independent servers in various locations with a centralised server system • enable e-payment/online submission of application to facilitate online services 	PA was examined by PAC in May 2015. Report of PAC has not been received.

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

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
31 March 2012	Performance Audit of State Excise Dept(Standard)	11	<ul style="list-style-type: none"> consider recruiting qualified personnel to administer the IT applications. The Government/Department may <ul style="list-style-type: none"> prepare a strategic plan covering mission, vision and objectives ensure that security labels are printed under its direct supervision take immediate steps to levy and recover the permit fees under Section 11 of the Abkari Act for the period from 2006-07 onwards consider amending the Rules(like prescribing aerial distance) to ensure that the distance restriction principle of prohibiting functioning of bars near educational institutions, places of worship etc are applied in practice immediately provide the required infrastructure support to the enforcement wing prescribe norms for leakage of seized spirit and monitor adherence of such norms start fresh toddy collection centres under direct supervision of the Excise Dept take timely action to equip enforcement employees with arms, ammunition and provide other support facilities like boat prescribe time limits for completion of chemical analysis and submission of test results consider taking action to prescribe clear parameters for identifying natural or artificial toddy carry out a work study to clearly assess the manpower needs. 	PA was examined by PAC in November 2014. Report of PAC has not been received.
31 March 2012	Levy and collection of VAT on evasion prone commodities/a reas in Commercial Taxes Department	5	<ul style="list-style-type: none"> The Government/Department may consider <ul style="list-style-type: none"> restoring audit assessment wing, Commercial Investigation Wing, and strengthening the Internal Audit Wing to ensure compliance of the provision of the Acts and Rules introducing a system of obtaining information periodically from other Departments/Boards etc. in respect of the persons registered with them and cross verify the same with KVATIS to trace the dealers whose turnover crossed the threshold limit taking follow up action on goods brought into the state in view of its potential misuse of items covered by Form 16 notifying the nature of transactions which would come under the scope of intangible and incorporeal good eligible to tax as featured in the schedule attached to the Maharashtra VAT Act 	PA was examined by PAC in October 2015. Report of PAC has not been received.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			<ul style="list-style-type: none"> taking timely action to revise floor rates in respect of evasion prone commodities. 	
	Conduct of Lotteries in the State	5	<ul style="list-style-type: none"> The Department may <ul style="list-style-type: none"> ensure that provisions for ascertaining the genuineness of tickets before payment of prizes are observed pursue the cases with the crime branch for ensuring credibility finalise accounts of lotteries scheme wise for the efficient conduct of lotteries fix a timeframe for e-payment ensure a databank of all the persons involved directly or indirectly by making suitable provisions in the software LIMS. 	Action taken explanatory notes have not been received.
31 March 2013	Performance Audit on Assessment, levy and collection of VAT on transfer of goods involved in the execution of works/supply contract	6	<ul style="list-style-type: none"> The Government/Department may ensure that <ul style="list-style-type: none"> separate identification numbers/code are assigned to work contractors separate account subhead are provided for accounting receipts under works contracts regular survey and inter-departmental cross verification of data are conducted to identify the works contractors by strengthening the intelligence wing and suitable measures for registration are taken promptly valid documents in support of compounding are produced by the applicant timely internal control mechanism is adequate to plug revenue loss, detecting the defects/deficiencies promptly various declaration forms in support of claims for concession/exemptions are verified properly. 	Action taken explanatory notes have not been received.
	Land Management by the Government of Kerala with special focus on land for Aramula Airport and Smart City Kochi	13	<ul style="list-style-type: none"> Audit recommends for <ul style="list-style-type: none"> taking steps for effective implementation of the land management policy so as to generate maximum revenue to Government since the supply/availability of land is very limited identifying and inventorising all government lands on a war footing by surveying and demarcating the land prescribing and maintaining a register in the Taluk/District/Division level for noting the details of the lease such as order number, area under lease, name of the lessee, date of expiry of lease, periodical renewal details and demand, collection and balance of lease rent etc in respect of each lease 	Action taken explanatory notes have not been received.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
	(Standalone)		<ul style="list-style-type: none"> developing a mechanism to fix lease rent and renew the lease within the time period stipulated in Act/Rules and fix a mechanism to revise fair value of land at frequent intervals prescribing a heavy fine and punitive action against those who violate lease conditions and initiate effective action against encroachment and prompt implementation of provisions of KLCA fixing conditions for assignment of land on registry putting in place a reporting system from village level to Commissioner of Land Revenue level for monthly reporting of lease cases such as total cases, time expired cases, demand, collection and balance of lease rent, resumed cases under resumption procedure etc. identifying and inventorsing all forest lands on a war footing by surveying and demarcating the land developing a mechanism to monitor and renew the lease/lease rent within the time period stipulated in Act/Rules putting in place a mechanism to realise lease rent dues promptly ensuring that agreements are executed in all lease cases. conducting an in-depth study on the need for a fifth airport in the small state of Kerala and that too at Aranmula which is less than 150 Kms from Thiruvananthapuram and Kochi international airports conducting an in depth study on the impact of the project on the ecology/environment on the basis of the issues raised in the Reports of the Legislature Committee on Environment, Kerala State Biodiversity Board and the Expert Committee appointed by AAI and take effective action to resolve the impacts conducting an independent enquiry into the cases of violations of provisions of various Act/Rules including the lapses that has occurred at all levels including that of the secretariat departments which supported the illegal acts of the individual company Business Rules regarding registration may be mapped properly to avoid acceptance of multiple registrations by the system unless specifically permitted by Commissioner of Commercial Taxes under Section 20(3). The system be updated to cover the risk of tax evasion by dealers having multiple registration, working out their aggregate turnover as specified in Section 20(4) of KVAT Act. 	Action taken explanatory notes have not been received.
	Effectiveness of Kerala Value Added Tax Information System	20		

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
	(KVATIS) in the Tax Administration of Commercial Taxes Department (Standalone)		<ul style="list-style-type: none"> Department may conduct periodical analysis of dormant registration numbers, other than application for temporary stoppage of business (vide Section 16), and take timely action for issuing notices for renewal or otherwise cancel the registration of dealers who had no business transactions for more than two years, to avoid misuse of Registration Certificate. System should generate appropriate alerts for renewal of Bank guarantees before its date of expiry and while dealers are effecting transactions. Necessary modifications may be made to the system to adequately capture the results of manual verification done by Assessing Officers, The department may provide adequate controls in the software to detect and alert the interstate transactions by cancelled dealers and the dealers who have not renewed their registration. Entering of valid registration numbers in the field for Consignee TIN/Consignor TIN in the e-declaration format for generating e-token may be made mandatory. System generated alerts needs to be devised for tracking consignment of goods in bulk quantity to prevent misuse of the facility for transporting consignments for own use without payment of tax. The system should be enabled to provide information about the non-surrendered transit passes to authorities including the intelligence wing of the department so as to track such vehicle. Department may ensure that all business Rules are mapped to the system properly, that the system provides all necessary input and that there exists adequate process controls and validation checks to detect shortfalls in payment of tax. Government may consider strengthening KVATIS for monitoring the scrutiny of returns through it. The Department may incorporate a provision in the KVATIS to ensure that the closing stock shown in the certified accounts in Form 13-A of a year is correctly taken as the opening stock of the succeeding year. Proper controls be built into the system so that the system can scrutinise returns collecting details from different databases. Department/Govt may initiate early action for the upgradation of the present server which would be cost effective in terms of improvement of revenue realisation it would fetch. 	

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

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
31 March 2014	(No Reviews were featured in this Audit Report)		<ul style="list-style-type: none"> The Department may operationalise the Audit Assessment Module with suitable modifications for the selection of high risk dealers through KVATIS for detailed audit. The Department may initiate action to make use of other Modules so that the disposal of appeals, the nature of penalty levied, progress of collecting arrears etc can easily be monitored. Important/required MIS reports may be made available in the software. The Department may impart sufficient training to all officers and staff periodically. The upgradation of the present system/server which is slow, would be cost effective in terms of improvement of revenue realisation, which was one of the primary goals of implementation of KVATIS. The Department may lay down norms for check of physical records on the basis of reports generated through KVATIS indicating risk areas. 	
31 March 2015	System of Assessment under KVAT	8	<ul style="list-style-type: none"> Department may take measures to bring all dealers into the tax net by utilising the inputs available in KVATIS and with other agencies. Government may examine the guidelines issued for selection of files for desk review by CBDT/CBIL and similar system of selection with relevant parameters be put in place in the State for VAT cases. The GCT may issue guidelines to the DCs regarding the aspects to be considered while reviewing the monthly quarterly reports. Government may consider fixing the time limit for completion of assessments. Department may prepared a manual detailing all aspects of assessment to ensure uniformity in the system of assessment. Further, it may be ensured that necessary reports are generated automatically from the KVATIS. A system may be established to collect the data relating to the taxable events from other departments and transfer the results of analysis to the lower/sub-ordinate level for utilising in the assessment process. Department may ensure that the final assessments are completed by utilising the data captured in KVATIS. Department may ensure the quality of assessments by adopting the system prevailing in Central Receipts as basis so that the number of cases which are failing in judicial review would be on a lower side. 	Action taken explanatory notes have not been received.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
	Levy, Collection and Accounting of Electricity Duty, Surcharge and Inspection Fee	5	<ul style="list-style-type: none"> Government may identify all LV installations/cable TV poles which are now left out and instruct licensees not to issue permit to Cable TV operators without production of safety certificate from the Department and work out a practical process of assessing and realising the revenue from the inspection of Cable TV poles. In order to prevent non/short levy, Government may consider taking the following measures: instruct CEI to ensure that the licensees are levying electricity duty/license fee from consumers/persons liable to pay it, licensees may be directed to calculate electricity duty on the price of energy indicated in the invoice and evolve a mechanism to collect the electricity duty/license fee payable by the consumers/persons liable for their payment. Department may expedite revenue recovery proceedings for early realisation of arrears of government revenue. Government may include interest leviable from KSEBL while netting off. Government may: avoid irregular grant of exemptions to railways and for lighting, amend Rule relating to collection charges which should be in line with the Act and in the interest of the Government and objective of the Act and consider amendment of the Act incorporating the treatment of excess T&D loss. Government may: take remedial measures to take care of inspection of lifts and escalators under regulations issued by Central Government and to ensure that MV installations and accounts of licensee are inspected as per periodicity prescribed, invoke penal provision on licensees not submitting returns, ensure that receipts involved in netting off with KSEBL were included in Government accounts and ensure that remittances through JSK are reconciled as per Kerala Budget Manual. 	Action taken explanatory notes have not been received.

Appendix - IV

(Paragraph 2.4.3.4 – Bullet 1)

(₹ in crore)

Name of assessee/TIN	Period	Import concede	Import as per data from customs Deptt.	Escaped turnover	Tax @1%	Interest	Penalty	Total
Malabar Gold Ornaments Makers(P) Ltd./ 32110234942	2014-15	Nil	37.44	37.44	0.37	0.05	0.75	1.17
The Dhanlaxmi Bank Ltd/ (32080208466)	2011-12	51.55	1918.69	1867.14	18.67	9.33	37.34	65.34
	2012-13	71.92	1393.31	1321.39	13.21	5.02	26.42	44.65
	2013-14	NIL	258.17	258.17	2.58	0.67	5.16	8.41
South Indian Bank Ltd./ (32080230731)	2011-12	19.94	45.85	25.91	0.26	0.13	0.52	0.91
	2012-13	66.09	109.19	43.10	0.43	0.16	0.86	1.45
The Federal Bank Ltd./ (32070233542)	2011-12	70.75	147.57	76.82	0.77	0.38	1.53	2.68
	2012-13	75.64	98.86	23.22	0.23	0.08	0.46	0.77
	2013-14	8.54	37.09	28.55	0.28	0.07	0.57	0.92
Chemmannur Gold Refinery Pvt Ltd./ (32071804075)	2014-15	38.19	45.76	7.57	0.08	0.01	0.15	0.24
Aiswarya Jewel Crafts/ (32080626854)	2014-15	94.07	99.23	5.16	0.05	0.01	0.10	0.16
Total					36.93	15.91	73.86	126.70

Appendix - V

(Paragraph 2.4.3.4 – Bullet 2)

(₹ in crore)

Name of assessee with TIN	Period	Income offered	Turnover suppression worked out by applying bench mark of 8% of turnover as income	Tax effect of escaped turnover
Apollo Gold, Perambra (32111368986)	2012-13	0.98	12.20	0.61
Apollo Gold Pvt Ltd (32100558434)	2012-13	1.87	23.38	1.17
Apollo Gold Pattambi Ltd (32091134016)	2012-13	1.17	14.65	2.48
Apollo Gold (32110800309)	2012-13	0.72	9.07	0.45

(Short levy of compounded tax)

(₹ in crore)

Name of assessee with TIN	Year	Compound ed tax	Additional tax payable	Total tax payable	Tax escaped	Interest	Penalty	Total
Apollo Gold, Perambra (32111368986)	2012-13	0.19	0.61	0.80	0.61	0.23	1.22	2.06
	2013-14	0.24		1.00	0.76	0.20	1.53	2.49
	2014-15	0.29		1.25	0.95	0.13	1.91	2.99
Apollo Gold Pvt Ltd (32100558434)	2012-13	0.25	1.17	1.42	1.17	0.44	2.34	3.95
	2013-14	0.31	-	1.78	1.46	0.38	2.92	4.76
	2014-15	0.33		1.88	1.55	0.22	3.09	4.86
Apollo Gold Pattambi Ltd (32091134016)	2012-13	Not compounded	-	-	0.73	0.28	1.47	2.48
Apollo Gold (32110800309)	2012-13	0.01	0.45	0.46	0.45	0.17	0.91	1.53
	2013-14	0.01		0.58	0.57	0.15	1.13	1.85
	2014-15	0.04		0.66	0.62	0.09	1.25	1.96
Total					8.87	2.29	17.77	28.93

Appendix - VI

(Paragraph 2.4.3.5 – Bullet 1)

Name of office	Name of assessee/TIN	Year	Sales TO	6(2) Purchase	Total TO	Tax Payable/ paid during previous year	Compoun- ded tax payable	Compoun- ded tax paid	Short Levy of tax	Short Levy of interest	Penalty	Total Short Levy
CTO, Vadakara	Narikkalathil Prinze Jewellery 32111206222	2011-12	57.11	54.20	111.30	0	5.81	5.81	0	0	0	0
		2012-13	87.69	106.96	194.65	5.81	7.26	6.39	0.87	0.33	1.75	2.95
		2013-14	97.06	132.44	229.50	7.26	9.08	7.35	1.73	0.45	3.46	5.64
		2014-15	113.02	132.44	245.46	9.08	10.44	8.46	1.99	0.28	3.97	6.24
CTO, Devikulam	Vins Jewellery 32061224204	2010-11	61.18	48.43	109.61		6.52	6.52	0	0	0	0
		2011-12	70.01	59.58	129.59	6.52	8.15	7.49	0.65	0.25	1.30	2.20
		2012-13	82.01	69.96	151.96	8.15	10.18	8.62	1.56	0.41	3.13	5.10
		2013-14	93.43	112.52	205.9	10.18	11.71	9.39	2.32	0.32	4.63	7.27
CTO-III Circle, Thrissur	Gold Heart 32080743101	2011-12	95.21	48.89	144.10		1.48	1.48	0	0	0	0
		2012-13	124.48	98.89	223.37	1.48	1.85	1.72	0.13	0.05	0.26	0.44
		2013-14	91.77	57.65	149.42	1.85	2.32	2.15	0.16	0.04	0.33	0.53
		2014-15	93.69	44.60	138.29	2.32	2.67	2.15	0.52	0.07	1.02	1.61
CTO, Quilandy	Aruna Jewellery 32111166982	2013-14	68.35	57.67	126.02		5.20	5.20	0	0	0	0
		2014-15	61.70	45.33	107.02	5.20	5.98	5.67	0.31	0.05	0.62	0.98
Total									10.24	2.25	20.47	32.96

Appendix - VII

(Paragraph 2.4.3.5 – Bullet 2)

(₹ in crore)

Name of assessee	Period	Unrecd Purchase turnover	Tax due U/Sn. 6(2)	Sales turnover	OPT payable @1% for the sales turnover (Special rebate eligible)	Net 6(2) tax due	6(2) tax paid	Short levy of tax	Interest	Penalty	Total
Muthoot Fincorp Ltd (32010198265)	2013-14	198.70	9.94	208.64	2.09	7.85	Nil	7.85	2.04	15.70	25.59
Alapati Jewellers (32070379904)	2014-15	21.74	1.09	19.50	0.19	0.89	Nil	0.89	0.13	1.78	2.80
KP Varghese&Sons (32070303674)	2011-12	1.10	0.04	1.10	0.01	0.03	0	0.03	0.02	0.07	0.12
KP Varghese&Sons (32070303674)	2012-13	3.06	0.15	3.06	0.03	0.12	0	0.12	0.05	0.24	0.41
KP Varghese&Sons (32070303674)	2014-15	2.49	0.12	2.49	0.02	0.10	0	0.10	0.01	0.20	0.31
Manappuram Jewellers (32081104372)	2013-14	289.90	14.50	289.90	2.90	11.60	-0.10	11.70	3.04	23.39	38.13
Manappuram Jewellers (32081104372)	2014-15	522.35	26.12	522.35	5.22	20.89	0.02	20.87	2.92	41.74	65.53
Total											132.89

Appendix - VIII

(Paragraph 2.4.3.5 – Bullet 3)

Sl No	Name of office	TIN	Year	Business Name	Closing stock value-2012-13/2013-14			Reverse tax	Interest	Penalty	TOTAL
					Total	Bullion & Diamond (1%)	Others (5%)				
1	CTO I Circle, Kollam	32020661992	2013-14	Archana Jewellery	36.05	0.00	36.05	1.80	0.47	3.61	5.88
2	CTO Punalur	32021113634	2013-14	Anu Jewellery	9.08	0.00	9.08	0.45	0.12	0.91	1.48
3	CTO Punalur	320211163415	2013-14	Edimannickal Fashion Jewellery	1470.69	0.00	1470.69	73.53	19.12	147.07	239.72
4	CTO Pathanamthitta	32030259344	2013-14	Bhima Gems(Adoor)Private Limited	5353.31	135.60	5217.71	262.24	68.18	524.48	854.91
5	CTO Special Circle, Alappuzha	32040237025	2013-14	Sky Jewellery	1027.03	0.00	1027.03	51.35	13.35	102.70	167.41
6	CTO Cherthala	32040827212	2013-14	Kairali Fashion Jewellers	5.65	0.00	5.65	0.28	0.07	0.56	0.92
7	CTO Special circle, Thodupuzha	32061419965	2013-14	Bhima Gold and Gems, Thodupuzha, Private Limited	7232.00	616.92	6615.08	336.92	87.60	673.85	1098.37
8	CTO Special Circle II Ernakulam	32070364795	2013-14	Alapatt Fashion Jewellery	2044.04	0.00	2044.04	102.20	26.57	204.40	333.18
9	CTO Kodungallur	32081089285	2013-14	Swapna Jewellery Private Ltd	86.71	0.00	86.71	4.34	1.13	8.67	14.13
10	CTO Vadakkanchery	32081395454	2013-14	Soundarya Jewellers	11.36	0.00	11.36	0.57	0.15	1.14	1.85
11	CTO Ottappalam	32091049629	2013-14	Kavitha Gold and Diamonds	898.21	896.59	1.62	9.05	2.35	18.09	29.49
12	AC (Assessment) Special Circle Malappuram	32100210224	2013-14	Blossom Gold Collections Private Limited	1292.70	0.00	1292.70	64.64	16.81	129.27	210.71
13	CTO, Ponnani	32100864063	2013-14	Ponnani Gold (P) Limited	1226.95	0.00	1226.95	61.35	15.95	122.69	199.99
14	AC (Assessment) Special Circle Malappuram	32101081896	2013-14	Eminent Jewel Arcade Private Limited	1914.01	0.00	1914.01	95.70	24.88	191.40	311.98
15	CTO III Circle Kozhikode	32110294217	2013-14	Gitanjali Life Style Ltd	1717.02	0.00	1717.02	85.85	22.32	171.70	279.87
16	CTO II Circle Kozhikode	32110729659	2013-14	Akshaya Jewellers	294.30	0.00	294.30	14.72	3.83	29.43	47.97
17	CTO II Circle Kozhikode	32110754804	2013-14	M.R. Jewellers	2.81	0.00	2.81	0.14	0.04	0.28	0.46
18	CTO Vadagara	32111293151	2013-14	Gold Palace	39.71	0.00	39.71	1.99	0.52	3.97	6.47
19	CTO Taliparamba	32120468256	2013-14	Rajadhani Gold	820.65	0.00	820.65	41.03	10.67	82.06	133.77
20	CTO I Circle Kannur	32120519488	2013-14	Krishna Gold	136.91	0.00	136.91	6.85	1.78	13.69	22.32
21	CTO I Circle Kannur	32120566784	2013-14	Pallithara Jewellers	191.77	0.00	191.77	9.59	2.49	19.18	31.26
22	CTO Kuthuparamba	32121007222	2013-14	Prince Jewellery	56.00	0.00	56.00	2.80	0.73	5.60	9.13
23	CTO Kuthuparamba	32121016233	2013-14	Sky Gold Kuthuparamba	298.95	0.00	298.95	14.95	3.89	29.89	48.73
24	CTO Special Circle,	32130262405	2013-14	Sulthan Gold Classic Private	1469.39	0.00	1469.39	73.47	19.10	146.94	239.51

Sl No	Name of office	TIN	Year	Business Name	Closing stock value-2012-13/2013-14		Reverse tax	Interest	Penalty	TOTAL
					Total	Bulion & Diamond (1%)				
	Kasarode			Limited						
25	CTO, Hosdurg	32130605384	2013-14	Rangees Gold Palace	20.10	0.00	1.00	0.26	2.01	3.28
26	CTO, Hosdurg	32130646931	2013-14	Minar Gold Private Ltd	1021.54	0.70	51.05	13.27	102.10	166.42
27	CTO, Wayanad	32140738449	2013-14	Bhima Jewellers	2299.93	35.86	113.56	29.53	227.12	370.21
28	AC (Assmt) Special Circle Thiruvananthapuram	32010186328	2014-15	Bhima Jewellers & Diamonds	4954.74	320.10	234.93	32.89	469.87	737.69
29	AC (Assessment) Special Circle II, Ernakulam	32070321538	2014-15	Bhima Silver Palace	505.64	0.98	25.24	3.53	50.49	79.26
30	AC (Assessment) Special Circle Thissur	32080216702	2014-15	Chithankandath Jewellery	1027.24	0.00	51.36	7.19	102.72	161.28
31	CTO, Taliparamba	32120404345	2014-15	Dubai Gold House	94.92	0.00	4.25	0.59	8.49	13.33
32	CTO I Circle, Kannur	32120594675	2014-15	Bhavana Jewellery	14.73	0.00	0.74	0.10	1.47	2.31
33	AC (Assessment) Special Circle, Kannur	32121036077	2014-15	Parampuzhayil Jewellers	697.79	0.00	34.89	4.88	69.78	109.55
34	CTO, Special Circle Kasargode	32130236272	2014-15	Biradu Jewellery.	1194.03	0.00	59.70	8.36	119.40	187.46
35	CTO, Vythiri at Kalpetta	32140465165	2014-15	Riches Jewel Arcade Limited Liability Partnership	12812.36	936.86	603.14	84.44	1206.29	1893.87
36	CTO, Special Circle, Alappuzha	32040294344	2012-13	Emerald Gold Souk India	261.15	0.00	13.06	4.96	26.12	44.14
37	CTO, Sullthanbathery	32140790392	2009-10	Gehana Gold Palace	807.15	807.15	8.07	5.97	16.14	30.19
				Total	33336.63		2516.80	538.10	5033.60	8088.50