

**TWELFTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2006-2008)**

**EIGHTY SECOND REPORT**

(Presented on 17th December, 2008)



SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2008

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**EIGHTY SECOND REPORT**

**On**

**Action taken by Government on the Recommendations contained in the Fifty  
Second Report of the Committee on Public Accounts (2001-2004)**

26/2009.

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## INTRODUCTION

I, the Chairman, Committee on Public Accounts having been authorised by the Committee to present this Report on their behalf present the Eighty Second Report on Action Taken by Government on the Recommendations contained in the Fifty Second Report of the Committee on Public Accounts (2001-2004).

The Committee considered and finalised this Report at the meeting held on 11th December 2008.

Thiruvananthapuram,  
17th December, 2008.

ARYADAN MUHAMMED,  
*Chairman,*  
*Committee on Public Accounts.*

## REPORT

This Report deals with the action taken by Government on the recommendations contained in the 52nd Report of the Committee on Public Accounts (2001-2004).

The Fifty Second Report of the Committee on Public Accounts (2001-2004) was presented to the House on 17th June, 2003. The Report contained eleven recommendations relating to Taxes Department. Government were addressed on 1st August, 2003 to furnish the statements of action taken on the recommendations contained in the Report and the final replies were received on 29th September, 2005.

The Committee examined the Action taken statements at its meeting held on 22nd November 2005.

The Committee was not satisfied with the statements of action taken by Government on recommendation Nos. 2, 3, 6, 10 and 11 (Para Nos. 9, 10, 21, 35 and 48) and decided to pursue it further. The recommendations, its replies thereon and further recommendations of the Committee are included in Chapter I of this Report.

The Committee decided not to pursue further on the remaining recommendations in the light of the replies furnished by Government. Those recommendations and their replies are included in Chapter II of this Report.

## CHAPTER I

RECOMMENDATIONS IN RESPECT OF WHICH THE ACTION TAKEN BY  
GOVERNMENT IS NOT SATISFACTORY AND WHICH REQUIRES  
REITERATION

## TAXES DEPARTMENT

**Recommendation***(Sl. No. 2 Para No. 9)*

1.1. The Committee, therefore urges the Government to evolve and implement sufficient means to avoid loss to Government due to lapse in application of taxation principles and desires that further, breach of these principles by officers while discharging their duties should be treated as serious lapses and suggests that stringent action should be taken against the delinquent officers so as to avoid this trend in future.

**Action Taken**

1.2. It is brought to the notice that even after the issuance of circulars the number of irregularities have not come down. The reason for the persistence of irregularities is due to the very many changes in the Act & Rules, issuance of various notification on exemption & reduction year by year and fresh hands in assessment wing. To prevent the recurrence of the irregularities in assessments, the internal audit wing has been strengthened with 2 Deputy Commissioners (A & I) as per G.O. (Rt.) No. 509/01/TD. Dated 11-7-2001. The work of the audit wing is also being reviewed by the Commissioner every month. Severe disciplinary actions are being taken against the erring officials. Periodical training is also being conducted in the centre for taxation studies. Irregularities committed by the officers are also being discussed in the monthly conferences convened by the Deputy Commissioners and in the review meeting of the CCT. In order to curtail the recurrence of common defects, Circular instructions were given.

**Further Recommendation**

1.3. The Committee wants to know whether disciplinary action was taken against any officer in pursuance of the Report of the Internal Audit Wing and if so, the number of officers who were proceeded against.

**Recommendation***(Sl. No. 3 Para No. 10)*

1.4. The Committee understands that the Commercial Taxes Department has conducted periodical auditing of the records relating to tax assessments by

utilising the services of the internal auditing system. The Committee desires to be furnished with the details of objections raised during internal audit conducted by Commercial Taxes Department and the total amount collected based on revised assessments made subsequently.

**Action Taken**

1.5. Year wise details of objections raised by the Internal Audit Wing

No. of objections		Amount involved (in lakhs)
1998-99	- 17325 Nos.	342.71
1999-2000	- 19564 Nos.	633.77
2000-01	- 13895 Nos.	954.48

Year wise details of objections settled and the collection of amount

No. of objections settled		Amount collected (in lakhs)
1998-99	- 2658 Nos.	83.13
1999-2000	- 5534 Nos.	244.60
2000-01	- 652 Nos.	31.80

**Further Recommendation**

1.6. The Committee wants to know the No. of objections raised during the internal audit, amount involved, the No. of objections settled and the amount collected during the year after 2000-01.

**Recommendation**

*(Sl. No. 6 Para No. 21)*

1.7. The Committee finds that a huge sum is remaining to be recovered towards revenue recovery and has been under stay by Appellate Authorities and Courts. The Committee also understands that a major share of arrears of tax in respect of public undertakings are held up due to the delay in revenue recovery proceedings. The Committee recommends that a time bound action plan should be enunciated to recover those huge arrears.

**Action Taken**

1.8. The arrears in collection held up by Revenue Recovery, stay by appellate authorities and Courts are being timely and properly watched by the

Commissionerate and by the District Level Officers and Sub Officers. Regular monthly conferences are being convened by the District Collectors with the officers of the Revenue Department. Major cases involving substantial amount involved are specifically discussed and the action plan taken in such conferences. Strict Circular instructions had been issued to the Appellate Authorities of the Department for the timely disposal of appeal cases involving stay. A time limit of 60 days has been fixed for the disposal of appeals after final hearing of the appeal as per incorporation of Rule 43 of the KGST Rules, 1963. Action is being taken for the early disposal of stay cases pending before STAT, High Court and Supreme Court. The Law officers and Joint Commissioner (law) have been given strict instructions to initiate urgent steps to vacate the stay in such cases for early disposal of Appeals.

#### **Further Recommendation**

1.9. The Committee wants to be furnished with the year-wise details regarding the number of cases and their positions and number of appeals relating to revenue recovery proceedings. The Committee also desires to be furnished with the statistics regarding the increase/decrease in revenue consequent on the measures taken by Taxes Commissionerate for timely and proper settlement of revenue recovery/appeal cases. The Committee also wants to be informed whether there was any reduction/increase in issuing stay orders/appeal granted by the Department.

#### **Recommendation**

*(Sl. No. 10 Para No. 35)*

1.10. The Committee desires to know the present position of the appeal filed before the Appellate Assistant Commissioner, Alappuzha in respect of M/s. Nirmala Nylons, Cherthala as per the direction of Hon'ble High Court and urges the Government to speed up action to realise Rs. 9,99,104 as pointed out in the notes furnished to the Committee.

#### **Action Taken**

1.11. The appeals filed by the assessee M/s. Nirmala Nylon, Cherthala for the years 1990-91 to 1993-94 have been disposed by the Appellate Assistant Commissioner, Alappuzha as per the direction contained in the order of the Hon. High Court of Kerala as per order No. STA- 168, 169, 170, 172/2000 and 171,173/2000 dated 12-1-2001 and STA – 174, 176/2000, 175, 177/2000 dated 12-1-2001. The appeal for 1990-91 and 1991-92 has been allowed by the Appellate Assistant Commissioner. Against the dismissal of the appeals for the year 1992-93 and 1993-94, the assessee preferred second appeal before the Tribunal. Action on

the arrears under Revenue Recovery has been stayed by the Honourable High Court in OP No. 22587/02.

**Further Recommendation**

1.12. The Committee wants to know the present position of the stay order in O.P. No. 22587/02 and the Revenue Recovery on the arrears against M/s. Nirmala Nylons, Cherthala.

**Recommendation**

*(Sl. No. 11 Para No. 48)*

1.13. The Committee desires that the present stage of the collection of excess deduction allowed in 9 cases involving an amount of Rs.26.43 lakh in respect of 3.4 (1) to 3.4 (9) be furnished within two months.

**Action Taken**

1.14. Out of 9 cases pointed out for collection of excess deduction allowed the entire dues have been collected in 7 cases. An amount of Rs. 1.80 lakhs due from M/s. Midland Rubber and Produce Company for the year 1992-93 who is an assessee on the rolls of the Inspecting Assistant Commissioner (Spl.), Ernakulam was recommended for collection under Revenue Recovery.

**Further Recommendation**

1.15. The Committee observes that the Department had furnished reply for only 8 out of 9 cases pointed out by the Committee. Hence, the Committee desires to be informed of the present position of the balance one case pending in which excess deduction was allowed. The Committee also desires to be informed of the present position of the revenue recovery against M/s. Midland Rubber and Produce Company.

## CHAPTER II

RECOMMENDATIONS WHICH THE COMMITTEE DOES NOT DESIRE TO  
PURSUE IN THE LIGHT OF REPLIES FURNISHED BY GOVERNMENT**Recommendation***(Sl. No. 1 Para No. 8)*

2.1. The Committee is at a loss to understand why the Department has taken a lenient view against the assessing officer whose action resulted in a huge loss to Government. The argument that there was no loss to Government, since the amount had been collected is not at all tenable as there is no reason to believe that the amount would have been collected if the lapses were not pointed out in audit. The Committee notes that a lenient approach in awarding punishment to officers, whose action resulted in creating huge loss to State exchequer will not serve the Department any purpose. On the other hand, a deserving punishment will of course work as a deterrent factor to other officers to be more precise in making assessments.

**Action Taken**

2.2. The recommendation is noted for future guidance.

**Recommendation***(Sl. No. 4 Para No. 19)*

2.3. The Committee notices wide-spread shortfall in tax collection due to the arrears in collection, stay by Appellate Authorities, Courts, Government and held up in revenue recovery formalities. The Committee expresses the view that if the existing situation is allowed to continue, it will undoubtedly disrupt the fiscal balance of the State. The Committee views the situation seriously and urges the Department to initiate all out attempts to improve tax collection and for the realisation of arrears.

**Action Taken**

2.4. The arrears in collection held up in RR stay by appellate authorities, courts & Government are being timely and properly watched by Government and the Commissionerate and by district level officers and sub offices. Regular monthly conferences are convened by District Collectors with the Deputy Commissioners and the officers of the Revenue Department. Major cases involving substantial amount involved are specially discussed and action plan

taken in such conferences. Strict circular instructions had been issued to the appellate authorities of the Department for the timely disposal of appeal cases involving stay. A time limit of 60 days has been fixed for the disposal of appeals after final hearing of the appeal as per incorporation of Rule 43 of KGST Act, 1963. Action is being taken for the early disposal of stay cases pending before the Sales Tax Appellate Tribunal, Honourable High Court & Supreme Court. The Law officers and Joint Commissioner (Law) have been given strict instructions to initiate urgent steps to vacate the stay in such cases for early disposal of appeals.

**Recommendation**

*(Sl. No. 5. Para No.20)*

2.5. The Committee also recommends to introduce measures to bring in an effective check in issuing stay orders.

**Action Taken**

2.6. This is done at present.

**Recommendation**

*(Sl. No. 7. Para No. 23)*

2.7. The Committee observes that the excess surcharge in respect of M/s. Dunlop India Limited, Ernakulam has been adjusted towards tax twice by adding to the remittance of tax and again from the balance tax due. The Committee recommends to examine the figures and to intimate the details of discrepancies to the Committee.

**Action Taken**

2.8. The audit has raised to point out short demand of Sales Tax Rs. 4,17,342 by giving excess credit to the assessee as against the actual remittance of tax. The actual remittance made by the assessee towards tax was Rs. 2,12,57,099 only. Excess surcharge of Rs. 4,17,342 was adjusted towards tax twice. This is a mistake apparent on the face of the records which is rectified under section 43 of the Act. Order under section 43 of the Act is issued to the assessee. Hence there is no short demand now. The whole amount was advised for Revenue Recovery and the Revenue Recovery authorities returned it stating that the company is declared as a sick unit and no action can be taken from that end. Meanwhile the defaulter Company have filed W.P. (C) No. 33410/03 before the Hon'ble High Court of Kerala stating that, they are sick Industrial

Company. So Department has taken this matter with details of all arrears due from the Company and addressed to the Joint Commissioner (Law) and requested to raise the claim of department before the Hon'ble High Court of Kerala and before the Board of Industrial Finance and Reconstruction (BIFR).

### **Recommendation**

*(Sl. No. 8, Para No. 28)*

2.9. It has come to the notice of the Committee that the amount due based on the revised assessment was not collectable from some firms as the functioning of the firms are only limited. About the scope of writing off such arrears the Witness (Secretary, Finance) intimated that resorting to waiver, exemption and writing off will lead to other companies on the same footing also requesting for such favours. The Committee feels that had the Commercial taxes Department initiated precautionary measures to guard against application of incorrect rate of tax and taken steps to realise the loss to Government when the mistake was pointed out, the loss on this account could have been avoided. The Committee urges the need for fixing responsibility and recovery of loss in cases of bona fide omissions as a check measure against the recurrence of such lapses.

### **Action Taken**

2.10. It is brought to the notice that even after the issuance of Circular No. 14/99/CT. dated 25-5-1999, the number of irregularities have not come down. The reason for the persistence of irregularities is due to the very many changes in the Act and Rules, issuance of various notifications on exemption and reductions year by year and fresh hands in the assessment wing. To prevent the recurrence of the irregularities in assessments the Internal Audit Wing of the Department has been strengthened with two Deputy Commissioners (A&I) as per G.O. (Rt.) No. 509/01/TD. Dated 11-7-2001. The work of the audit wing is also being reviewed every month by the Commissioner of Commercial Taxes. Severe disciplinary actions are being taken against the erring officers. Periodical training are also being conducted in the Centre for Taxation Studies. Mistakes committed by the officers are being discussed in the monthly conferences convened by the Deputy Commissioners and in the review meeting held by Commissioner of Commercial Taxes.

**Recommendation**

*(Sl. No. 9, Para No. 29)*

2.11. The Committee understands that the delinquent officers responsible for wrong assessment and computation of tax amount were left scot-free even after finalising the disciplinary proceedings. The Committee suggests that vigilance cases should be taken against the erring officers even after retirement to ensure that such instances would not recur in future.

**Action Taken**

Recommendation is noted for future guidance.

Thiruvananthapuram,  
17th December, 2008.

ARYADAN MUHAMMED,  
*Chairman,*  
*Committee on Public Accounts.*

## APPENDIX I

**Summary of Main Conclusions/Recommendations**

<i>Sl. No.</i>	<i>Para No.</i>	<i>Department Concerned</i>	<i>Conclusions/Recommendations</i>
(1)	(2)	(3)	(4)
1	1.3	Taxes Department	The Committee wants to know whether disciplinary action was taken against any officer in pursuance of the Report of the Internal Audit Wing and if so, the number of officers who were proceeded against.
2	1.6	„	The Committee wants to know the number of objections raised during the internal audit, amount involved, the number of objections settled and the amount collected during the year after 2000-2001.
3	1.9	„	The Committee wants to be furnished with the year-wise details regarding the number of cases and their positions and number of appeals relating to revenue recovery proceedings. The Committee also desires to be furnished with the statistics regarding the increase/decrease in revenue consequent on the measures taken by Taxes Commissionerate for timely and proper settlement of revenue recovery/appeal cases. The Committee also wants to be informed whether there was any reduction/increase in issuing stay orders/appeal granted by the Department.
4	1.12	„	The Committee wants to know the present position of the stay order in O.P. No. 22587/02 and the Revenue Recovery on the arrears against M/s. Nirmala Nylons, Cherthala.
5	1.15	„	The Committee observes that the Department had furnished reply for only 8 out of 9 cases pointed out by the Committee. Hence, the Committee desires to be informed of the present position of the balance one case pending in which excess deduction was allowed. The Committee also desires to be informed of the present position of the revenue recovery against M/s. Midland Rubber and Produce Company.