

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

COMMITTEE ON PUBLIC ACCOUNTS

(2021-23)

TWENTY FOURTH REPORT

(Presented on 8th December, 2022)



SECRETARIAT OF THE KERALA LEGISLATURE

THIRUVANANTHAPURAM

2022

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2021-23)**

TWENTY FOURTH REPORT

on

**Action Taken by Government on the Recommendations contained in the Fifty
Fourth Report of the Committee on Public Accounts (2014-16)**

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COMMITTEE ON PUBLIC ACCOUNTS

(2021-2023)

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Shri Reji B., Additional Secretary

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Smt. Shamy J., Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Twenty Fourth Report on Action Taken by Government on the Recommendations contained in the Fifty Fourth Report of the Committee on Public Accounts (2014-16).

The Committee considered and finalised this Report at the meeting held on 21st November, 2022.

Thiruvananthapuram
8th December 2022.

SUNNY JOSEPH,
Chairman,
Committee on Public Accounts.

REPORT

The Reports deals with the Action Taken by the Government on the recommendations contained in the 54th Report of the Committee on Public Accounts (2014-16)

The 54th Report of the Committee on Public Accounts (2014-16) was presented to the House on 9-7-2014. The Report contained 20 Recommendations relating to Taxes Department

Government was addressed on 1-8-2014 to furnish the statements of Action Taken on the recommendations contained in the Report and final reply was received on 18-1-2019.

The Committee considered and approved the Action taken statements on the recommendations furnished by Government contained in the 54th Report of the Committee (2014-16) at its meeting held on 5-7-2017, 13-12-2017 and 7-10-2020 and decided not to pursue further action on the recommendations in the light of the replies furnished by the Government. The recommendations and Government replies are incorporated in this Report.

TAXES DEPARTMENT

Recommendations

Sl.No.1 Para No. 25

The Committee recommends the Taxes Department that earnest efforts should be made to achieve the target fixed by the Government, time to time, without compromising the VAT collection in near future.

Action taken

Difference between target and collection is due to the reason that target was fixed without taking into consideration of the unforeseen exigencies usually prevalent in the trading sector. However when considering the past four years, the difference between target and collection is only marginal as below:

Year	Target	Collection	Percentage of Collection
2010-11	15126.69	15833.11	105.67
2011-12	19428.90	18938.83	97.48
2012-13	23450.52	22511.09	95.99
2013-14	28490.00	25376.19	89.07

The target for the year 2013-14 was re-fixed at Rs. 26686.01 crores and when compared with the revised target, the percentage of achievement was 95%. The reason for revising the target for the year 2013-14 was taking into account the prevailing recessionary trends reflected in the sale of motor vehicles, white goods, luxurious items and also stagnation in the construction sector

Recommendations

Sl.No.2 Para No. 26

The Committee advises the Taxes Department to take all measures for the monthly reconciliation of departmental figures with the figures that booked by Accountant General, and ensure to avoid misclassification in future.

Action taken

In view of the seriousness of the matter, the Commissioner of Commercial Taxes as per D. O. Letter No. FIN.A3.11075/2010/CT dated 25-5-2013 has directed all the Deputy Commissioners to constitute a special team at the department level for the work of verification of all remittance at the place of remittance and reconciliation with the figures of the Accountant General. Besides, a Committee has been constituted consisting of the JC (A&I), AC-1 and the Finance Officer of the Commissionerate to monitor and supervise the verification and reconciliation State wide. The Committee conducts inspections at the districts, as and when necessary, to give further directions. In addition to this, the committee has instructions

to liaison with the officers concerned in the office of AG for the successful completion of the work at the earliest.

With the implementation of the online payment of tax form 1-1-2009 onwards, Treasury reconciliation is being conducted electronically, based on the payment scroll forwarded by the Banks and the Treasury, SBI and SBT are the Banks permitted to collect tax through e-payment. The e-payment made by dealers are received in the Bank portal and the system will debit the amount from the Bank account of the dealers and credit it into the Government pooling account. Then the Bank will provide payment scrolls on a T+2 basis in the Office of the Commissioner of Commercial Taxes and the Treasury. This will be updated in the KVATIS and the tax remittance system. The Treasury Department will generate payment scrolls which will be submitted to CCT. This will also be updated in the KVATIS and subjected to cross verification of missing credit, if any. Besides, the Bank will submit consolidated statement of payment in every month and this is being reconciled with the Treasury figures.

Recommendations

Sl.No.3 Para No. 27

The Committee recommends that all the check posts should be computerised without further delay. It urges to develop an audit module and also to take rectifying measures to clear the discrepancies in the currently using software viz. KVATIS after incorporating the suggestions pointed out by Audit.

Action taken

All check posts having the infrastructure such as power supply, permanent building and connectivity are provided with online facility. Accordingly 45 check posts out of 74 are now provided with the facility of online system. Balance 29 offline check posts are not having the above infrastructure facility. Most of them are functioning either in temporary sheds or in container cabin. As per G.O.(Rt.) No.551/14/TD dated 16-7-2014 administrative sanction has been issued by Government to upgrade the hardware system with a view to rectification measures to clear the discrepancies in the currently using software viz, KVATIS. Action is in

progress with regard to tendering and procurement.

The Department has incorporated fundamental changes in the e-declaration process whereby the declaration of form 8F for a registered dealer in Kerala is restricted to the dealer's login. A cancelled dealer is not allowed to take e-declaration with registered dealer status.

Necessary checks will be incorporated in the system to prevent transaction of consignments by dealers who have not renewed the registration after 30th of April 2015.

The issuance and surrender of transit passes have been made online and system has been facilitated to issue alert notices to the check post officers when the vehicle subsequently approaches the check post. Instruction has already been issued vide Circular No. 27/2014 for assessing the transporter/owner of the vehicle who have not surrendered the transit pass at exist check posts.

In addition to the above, alert message by the district DC's in the case of return defaulters is another facility added to KVATIS to minimize the tax evasion.

Recommendation

(Sl. No. 4, Para No. 28)

The Committee directs the Taxes Department for the speedy publication of the comprehensive Manual on KVAT, which is reported to be in draft stage, specifying the procedures for administration of KVAT Act and Rules made thereunder after incorporating the provision for e-filing.

Action Taken

Publication of VAT manual has no relevance now as GST is getting implemented by July 2017.

Introduction of GST will be a very significant step in the field of indirect taxation. Amalgamation of a large number of Central & State taxes into a single tax would mitigate all the ill effect of present taxation system.

Recommendation

(Sl. No. 5, Para No. 29)

The Committee recommends that the Taxes Department should exercise more

control over the completion of assessments of Pre-Vat period to ensure that the assessment under fast track was effective and there was no leakage of revenue. It also directs to furnish a report on the latest position of cases where assessment was pending in Pre-VAT period.

Action Taken

Number of KGST assessment pending as on 01.04.2005 (Pre-VAT period) was 1,45,199. Of this, 1,45,151 assessments were completed by 31.03.2014. Assessments pending to be completed are only 48 numbers. These cases are pending finalisation due to interference of various courts. District wise details of pendency as on 30.11.2014 is given below.

Thiruvananthapuram	0
Kollam	0
Pathanamthitta	0
Alappuzha	0
Kottayam	1
Idukki	0
Ernakulam	7
Mattanchery	0
Thrissur	30
Malappuram	0
Palakkad	0
Kozhikode	10
Wayanad	0
Kannur	0
Kasargod	0
Total	<u>48</u>

Efforts are being taken to get the stay vacated by various Courts and to complete the KGST assessment (Pre-VAT) at the earliest.

Recommendation

(Sl. No. 6, Para No.30)

The Committee also recommends that a mechanism should be adopted to ascertain the veracity of the collectable and non collectable tax arrears and to have a systematic classification of collectable arrears under different categories.

Action Taken

The following mechanism is adopted by the Department to ascertain the veracity of collectable and non collectable arrears.

- a) By ascertaining monthly reconciliation of arrear pending collection with the Revenue Authorities on monthly basis.
- b) Deputy Commissioners conduct monthly meetings on Revenue Recovery in their respective districts to review progress of RR collection by Revenue Authorities & Inspecting Assistant Commissioners.
- c) The Department officials follow up RR collection by attending monthly RR meeting convened by District Collector with relevant reconciled data.
- d) By furnishing details such as Bank Account No., movable and immovable property of the defaulter and sureties/partners etc, to Revenue authorities.
- e) By preparing a list of top priority case in each district to furnish the same to RR authorities for urgent action.
- f) By pressing to dispose urgent appeal petitions and stayed cases relating to cases advised for RR.

- g) By modifying formerly disposed orders as per direction contained in Appellate orders and intimate modified amount to RR authorities in time.

Arrear pertaining to older periods carried over and updated annually. This is done by reconciling the department figures periodically with revenue figures and treasury figures.

Considering the recommendations of the PAC the Department had appointed the following senior level nodal officers to monitor revenue recovery of each district.

1. Joint Commissioner (General) - Palakkad, Pathanamthitta, Alappuzha & Malappuram.
2. Joint Commissioner (A&I) - Thiruvananthapuram, Kollam, Kottayam.
3. Joint Commissioner (Law) Kozhikkode, Thrissur, Wayanad.
4. Joint Commissioner (IA), Audit - Idukki, Kasargode, and Kannur.
5. Deputy Commissioner (I), Ernakulam - Ernakulam and Mattanchery
6. Deputy Commissioner (I), Kozhikkode - Kozhikkode GST Roll out.
7. Deputy Commissioner (I) Thiruvananthapuram- Thiruvananthapuram for GST Rollout.

Accordingly the Department prepared collectable and non collectable tax arrears as detailed below.

Details of Arrear (Rs.In crore)

As on 31.03.2012	As on 31.03.2013	As on 31.03.2014	As on 31.03.2015	As on 31.03.2016	
Stay by Court	988.6	779.95	881.29	2330.19	3227.72
Stay by Govt.	112.12	249.85	230.19	222.44	116.43

Stay by others	216.85	273.43	630.15	550.48	708.14
Other State	251.51	239.85	214.95	209.47	412.00
Other action	3426.07	3964.71	3538.39	1726.38	1048.50
Collectable: arrear	463.49	652.85	1070.87	1359.35	1371.19
Total	5458.64	6160.64	6565.84	6398.31	6883.98

Recommendation

(Sl.No. 7, Para No.31)

The Committee realises that in Kerala only five to ten percent dealers were got registered and directs the Taxes Department to initiate steps to ensure that all the dealers are got registered . The Committee observes that unlike CST, there is no provision in KVAT Act insisting a dealer to deposit an amount as security for registration. It also recommends to incorporate necessary provisions in the Act to realise the security charge from major dealers.

Action Taken

As per section 17 of the KVAT Act read with Rule 19 of the KVAT a registering authority may demand security deposit where it has reason to believe that the dealer is likely to default in payment of tax. In the case of dealers effecting first sale in the State, furnishing of security deposit is mandatory. The Registering authority has discretionary powers as far as the quantum of security deposit is concerned. Maximum security that can be demanded is limited to one of the tax payable on the annual turn over of the dealer for the year as estimated by the registering authority.

Proviso to Sub Section (2) of Section 17 states that the registering authority shall have the power to demand at any time additional security if such authority has reason to believe that the turn over estimated under sub section (1)or(2) of Section 17 was too low.

CCT has issued Circular construction vide circular 10/2006 prescribing the

amount of security deposit to be furnished by under various categories of dealers as below so as to avoid the disparity in collecting security with respect to different offices under CTD

	Category	KVAT	CST
A. Individual/Proprietorship			
1.	Resident Kerala	5000	15000
2.	Non-Resident Kerala	10000	25000
B. Partnership Firm			
1	Resident Kerala	10000	25000
2.	Non-Resident Kerala	20000	50000
C. Company			
1.	Resident Kerala	25000	50000
2.	Non-Resident Kerala	50000	75000

As such, provision for insisting security in connection with new registration is already there in the KVAT Act.

Recommendation

(Sl. No.8, Para No.32)

The Committee observes that the amendments made to the KVAT Rules with effect from 31st December, 2007 authorizing AAs to permit petroleum dealers to opt for presumptive tax when turnover in respect of sale of goods below Rs. 50 lakh was null and void, as it is against the provisions contained in the Act, so it recommends that necessary amendment should be made in the KVAT Act in this regard.

Action Taken

Under VAT regime it is necessary to bring more dealers under the tax net so as to increase State revenue. So permission was granted to petroleum dealers to opt for payment of presumptive tax under section 6(5) of the KVAT, Act 2003 if the total turn over of the dealer in respect of goods to which the provisions of the Act applies is below fifty lakh rupees and the turnover under KGST Act in respect of the goods included in the fourth schedule of the KVAT, Act 2003 shall not be reckoned for the purpose of deciding the eligibility for payment of Presumptive tax under Section 6(5).

For deciding whether a dealer in petroleum products is liable to tax under section 6, the total turnover both under KVAT Act and KGST Act together shall be taken into account. But sale proceeds of goods coming under the 4th Schedule shall not be reckoned for any other purposes of the Act since sub section (3) of section 6 provides that those goods shall be outside the purview of the Act.

Recommendation

Sl No. 9, Para No. 33

Regarding the audit paragraph non registration of those liable for registration, the Committee was informed that the certificate issued by the Chartered Accountant is out of order and it directs that a detailed report in this regard should be furnished to the Committee

Action Taken.

The purchase list filed along with the annual return contains only the name of the dealers and place name. Hence it is not an easy task to find out the full address of the dealers by the Assessing Authority.

Moreover, in the GST scenario the turnover limit for taking GST registration is 20 lakhs and none of the 5 unregistered dealers mentioned in the Audit report exceeds this limit. Hence it is not relevant to proceed further in this

case. (The detailed report on this case is enclosed in Annexure I).

Recommendation

(Sl. No.10, Para No.34)

The Committee understands that the parcel/courier clearing and transporting agencies would be categorised as dealers and every such agency operating in Kerala should take registration in the circles and even the railway authorities had not obtained registration. Then the Committee suggests the Taxes Department that the matter should be taken up with railway authorities in the light of Audit objection.

Action Taken

As per Clause(XV)of Section 2 of KVAT Act 2003, all Parcel & Courier Services come within the definition of dealer. Section 15 of the said Act requires that they have to take registration under the Act. Section 52 further requires that such agency should submit return in every month in Form 11 A before the assessing authority of the area as prescribed under Rule 13 of the KVAT Rules 2005.

CCT has issued a series of Circular instructions in this regard. As per Circular Nos.33/06 dated 11.10.2006, 32/07 dated 30.7.2007, 50A/07 dated 26.12.2007, 15/08 dated 11-04-2008, the need for registering the Parcel & Courier Agencies and Forwarding Agencies and bringing them under the purview of KVAT Act & Rules has been emphasised.

By virtue of instruction contained in Circular No.32/07 dated 30.07.2007 registration of Parcel agencies were made mandatory. Now the Parcel/Courier/Forwarding agencies having TIN No. only can perform the operation of dispatching goods from other state to Kerala. In short, a person bringing goods from outside State is bound to select a parcel agency which should hold a valid TIN registration.

The Department of Railway, Palakkad and Thiruvananthapuram Divisions

have taken separate registrations under VAT Act.

The DRM Palakkad Division is a valid TIN holder on the rolls of CTO, Ist Circle, Palakkad bearing Registration No.32090576141. So also the Controller of Stores, Railway Division, Thiruvananthapuram is holding TIN registration on the rolls of the AC (Assmt) Special Circle Thiruvananthapuram bearing TIN 32010161433.

Besides, facilitation centres are functioning at Thiruvananthapuram Central & Ernakulam South Railway stations to verify the consignments sent through Railway. Steps are being taken to install Facilitation Centres at Kozhikode, Chalakudy and Palakkad railway stations.

Recommendation

Sl. No. 11 Para No.35

The Committee strongly recommends that all Local Self Government bodies in the State including Panchayaths should mandatorily be registered under KVAT Act with immediate effect.

Action Taken

As per Section 15(2)(x) of KVAT Act, any State Government, Central Government or Government of any Union Territory or any Department there of or any Local Authority/Autonomous body shall get himself registered under the Act irrespective of the quantum of total turn over.

By the implementation of online system of payment of tax and e-filing of return further instruction has been given to them for mandatory registration as per circular instruction.

Data available with the Department reveals that total number of dealers registered under the above category as on 01.04.2014 is 1207 only.

Recommendation

Sl. No. 12 Para No.36

Regarding the impropriety in showing opening balance as Rs.9.03 lakh by a dealer in motor vehicles in CTO, Nedumangad whose closing balance was Rs.18.89 lakh, the Committee observes that the Taxes Department had taken different stance at the time of furnishing note and at the time of witness examination. So the Committee directs the Taxes Department to furnish a detailed report in this regard at an early time.

Action Taken

The department has introduced the system of online uploading of closing stock in KVATIS. Dealers are to upload their closing from 2009-10 onwards.

M/s. Zion Automobiles, a dealer of two wheelers and spare parts, Kattakkada was an assessee on the roles of CTO, Nedumangad. During the year the above dealer had disclosed total and taxable turnover of Rs.1,14,18,877/-. Regarding the stock record in the Profit and Loss account and the closing stock inventory worth Rs.986409/- as pointed out by AG, the assessment records were verified which reveals that the closing stock value shown in the books of the accounts of the dealer is only the actual physical closing stock value. In order to achieve the target given by the company, the dealer issued post dated cheques to the Company and the bills were arised for the stock so as to achieve the targets of vehicles and spares. During the finalisation of accounts post dated cheque amounts were also taken into accounts and hence a stock difference of Rs.986409/- had occurred. Hence there is no attempt of evasion of tax. The dealer has reported stoppage of business with effect from 23.09.2009.

Recommendation

Sl. No. 13 Para No.37

The Committee recommends the Taxes Department that steps should be

taken to fix minimum amount of penalty from the dealers for the default in submitting return in time at the earliest.

Action Taken

For the default of return non filing, assessing officer has the discretion to impose penalty up to Rs.10,000/-. A provision has been made to make it mandatory through the Finance Act 2004. As per the amendment made in the proviso to Section 67, if a person has failed to submit the return as required by the provisions of the KVAT Act or the Rules made thereunder a minimum penalty of Rs.1000/- shall directed to be paid.

Recommendation

Sl. No. 14 Para No.38

The Committee also recommends that more discretionary powers should be assigned to Assessing Authorities, by empowering them to impose more stringent penal action against the defaulters, who failed to submit the annual return in time.

Action Taken

As per Rule 22(2) "Every dealer registered under the Act and every dealer liable to get registered under the Act and every dealer who is required to do so by the assessing authority, irrespective of the quantum of his total turn over, shall, on or before the 30th day of April every year, submit to the assessing authority of the area a return in Form 10 showing details of total turnover, exempted turnover, taxable turnover, OPT, IPT, net tax, etc along with annual statements prescribed therein. Section 67(1) (e) of the Act envisages for the imposition of penalty upto Rs.10000/- for non filing of annual return. In spite of the above express provision in the Act, the assessing authority can estimate the

turnover of the return period and complete the assessment to the best of its judgement as per Section 22(3) of the Act and demand the tax due with interest in addition to the imposition of penalty as above. Since there are sufficient provision in the statute as stated above. More discretionary power to the assessing authority may not be needed in respect of penal action.

Recommendation

Sl. No. 15 Para No.39

The Committee remarks that after the launching of computerisation, benchmark data can be easily accessed, and recommends that a software should be developed so as to avoid the external inconsistency if any occurred.

Action Taken

After computerisation, e-consignment of declaration has been made mandatory from February 2012 onwards vide Circular No.16/2011 dated 26.08.2011. Accordingly, all dealer details are readily available at check posts for verification. So also, all check post transactions are instantly accessible to the assessing authority concerned. Electronic filing of returns, uploading purchase and sale invoices (own and build from others), e-filing of audit reports, in Form 13 & 13A, closing stock inventory and P & L Account etc has been made mandatory. Cross verification of return with reference to updated details of purchase and sales invoices, closing stock inventory, 13, 13A statements and P & L Account are possible electronically and easily accessible to all assessing authorities. Therefore, the possibility of any external inconsistency is completely avoided.

Recommendation*Sl. No. 16 Para No.40*

The Committee also recommends that, the procedures for the verification of accounts of dealers should strictly be complied with, as envisaged in the KVAT Act/Rules.

Action Taken

Section 40 of KVAT Act read with Rule 58 of the KVAT Rules prescribes the procedure for the maintenance of true and complete accounts. By a proviso added to Section 40 with the Kerala Finance Act 2008, the dealers are permitted to use electronic billing and accounting subject to certain restrictions and conditions prescribed. Circular No.23/08 dated 16.05.2008 and Rule 58 (20A) has prescribed such restrictions and conditions.

Electronic filing of audit report in form 13/13A has been made mandatory with effect from 01.08.2011. Cross verification of returns with reference to updated details of purchase and sales invoices, closing stock inventory, etc are possible electronically in the case of dealers having turnover of and above Rs.60 lakhs. Besides, online filing of P & L Account has been launched in 2014. So that cross verification of business transaction in respect of dealers failing below Rs.60 lakhs is also possible electronically. The check posts transaction can be cross verified with the help of mis reports which is easily accessible to all assessing authorities. Dealer to dealer transaction can be cross verified with the help of updated purchase and sale invoices of both the dealers.

However instructions have already been given to the assessing officers to verify the books of accounts invariably with respect of refund cases, best judgement assessment, etc.

In the VAT scenario the conventional system of assessment by the department has been replaced by self assessment.

Recommendation

Sl. No. 17 Para No.41

The Committee observes that registered dealers are not liable to tax and compound tax dealers are not eligible for ITC. Hence it stands for developing a system for allotting a temporary number for compounded tax dealers instead of TIN in order to easily detecting the situation of availing inadmissible ITC on purchase from registered dealers.

Action Taken

Under KVAT Act, compounding is optional. Dealers opted for compounding under Section 8 of the Act in a year may not for compounding next year. In the case of a works contractor, the Contractor is at liberty to opt for compounding either the whole works executed by him or certain works done at his option. Hence allotting separate identification number to the compounded dealer may not practicable option.

With respect to the case of availing inadmissible ITC by the compounded dealers already there is a provision for identifying compounded dealers from MIS reports which is easily accessible to the assessing authority. Automated check measures can be introduced in this regard in the course of the proposed up gradation of KVATIS.

Recommendation

Sl.No. 18 Para No. 42

The Committee strongly recommends to the Taxes Department that necessary steps should immediately be taken to amend the KVAT Act, so as to strengthen the provision regarding the imposition of penalty for first and subsequent offences.

Action Taken

In view of the recommendation it was decided to fix minimum amount of penalty for non filing of returns and accordingly the Finance Act, 2014

introduced a minimum penalty of Rs. 1000/- for non filing or returns (extract of the Finance Act is enclosed as Annexure II.)

The following measures were introduced in the case of continuing offences as subsequent offences.

1. Directions were issued to complete provisional/final assessment in such cases.
2. Blocking of check post transactions in such cases.

Recommendation

Sl. No. 19 Para No. 43

The Committee recommends that necessary amendments should be made to the KVAT Rules to ensure that while sanctioning refund of ITC, Assessing Authority should confirm genuineness of the claim by cross-checking the purchase invoices.

Action Taken

The KVAT Rules 46, 47 & 47A, specifically provide the procedure to be completed for the detailed verification of genuineness of refund application. CCT had already issued a Circular instruction to the assessing officers Vide No. 13/2006 by which, it has been instructed that while examining the claim of refund, the aitprotu concerned should verify the invoices shown in Form No. 21 with reference to the purchases for which input tax credit had been claimed in the return and satisfy the correctness thereof. Since there is already sufficient provision in the rules and circular instruction modification in the KVAT Rules may not be needed.

Recommendation

Sl. No. 20 Para No. 44

The Committee expresses its anguish and its concern over the irregularities unearthed by Audit Wing in Commercial Tax office, Changanassery and recommends that the amount of Rs. 2.10 lakh must be realized from the dealer

himself mentioned in the report of the Accountant General and the matter should be reported to the Committee.

Action Taken

M/s Changanassery Social Service Society is a registered dealer dealing with Khadi and Village Industries items and furniture and handicrafts

2005-06

M/s Changanassery Social Service Society has filed annual return for the year 2005-06 declaring a total turnover of Rs. 1,36,09,973/- and taxable turnover of Rs. 53,68,160/-. The dealer filed application in Form 25 A for claiming input tax credit on opening stock as on 01.04.2005 for an amounts of Rs.2,73,514/-. As per Order dated 30.03.2006 the Commercial Tax Officer granted input tax credit on opening stock to the tune of Rs. 2,53,010/- The dealer had availed the same in the monthly returns of 03.06 and has excess input tax amounts to Rs. 46,422/- Hence the dealer filed Form 21CC for claiming refund of Rs. 2,99,432/- (Rs. 2,53,010+ Rs. 46422). The Commercial Tax Officer sanctioned refund for the same as per Order dated 01.02.2006 and adjusted the same towards the arrears of 2000-01 and 2003-04.

As per the Order dated 26.03.2008 of CTO (AA) the excess remaining for the year 2005-06 is Rs. 85,343/- only. The refund already issued was Rs. 2,99,432/- Hence the balance amount of Rs. 2,14,089/- was demanded with interest.

But in the Order dated 26.03.2008 following payments were not given credit by mistake.

Payment	Chalan No. & Date
Rs.7,026/-	162/10.09.2005.
Rs.26,456/-	184/24.11.2005.
Rs.5,106/-	108/09.12.2005.
Rs.73,974/-	880/11.02.2006.

Rs.32,055/-	269/21.02.2006.
Total Rs. 1,44,617/-	

The dealer paid balance amounting to Rs. 69,472/- with interest of Rs.22,926/- (Total Rs. 95,880/-) vide chalan No.98 dated 30.03.2009. So there is no balance due.

2006-07

As per the annual return of 2006-07 the dealer had shown Rs.2,09,774/- as excess input tax credit carried forward from previous return period. But on verification, it is understood that this amount is the total of tax payment during the years 2005-06 and excess input tax credit unadjusted in 03.2007.

Total payment for the year 2006-07

- Rs. 1,63,352.00

Excess input tax credit unadjusted during 03.06

- Rs. 46,422.00

Total

Rs. 2,09,774.00
=====

This amount was shown as excess input tax credit carried forward from previous return period mistakenly. The excess input tax credit carried forward from 03.06, Rs. 46,422/- was paid vide chalan No. 453 dated 11.10.2006. The dealer also filed revised annual return for the year 2006-07. Hence there is no short levy in this case. The copies of demand notice, assessment order and challan are enclosed as **Annexure III**.

Thiruvananthapuram,
8th December, 2022.

SUNNY JOSEPH,
Chairman,
Committee on Public Accounts.

Annexure - I- Detailed Report

The C & AG has included the audit case relating to M/s. St. Thomas Wood Industries, Avinissery for the year 2006 - 07 in the audit report for the year ended 31.03.2009 (Vol. II) vide para 4.4.1.1.

As per the observations in the Local Audit Report, the books of accounts of the assessee were called for and verified in detail. On verification, it was found that the entire purchase of packing cases was not effected by the assessee from 5 persons pointed out in the audit note. As per the purchase bills and vouchers produced for verification, the purchases were effected from unregistered dealers numbering to more than 70 persons. As per the records, the above 5 dealers had no turnover exceeding Rs. 5,00,000/- and they were found to be not liable for registration under the KVAT Act. This aspect was confirmed by the Chartered Accountant who had conducted the compulsory audit under section 42 of the Act, a copy of which was already forwarded along with the reply to audit. The observation in audit was that as per the purchase list filed by the assessee, the major share of the purchases is effected from 5 unregistered dealers. The explanation of the assessee was that it was due to the laziness and mistake of the accountant that the purchases were shown as only from 5 persons instead of listing the 70 odd suppliers. He has mentioned that name of only 5 persons in the purchase list. Assessing authority examined the contentions of the dealer with the books of accounts produced including purchase vouchers and on personal enquiry revealed that there is some merit in the contention of the assessee. The verification of accounts also revealed that the five persons have the following turnover only during the year 2006-07 and found that all these five persons have not exceeded the turnover of 5 lakhs to get registered under KVAT Act 2008. The details of their turnover as per books of accounts are given below.

1. Vasu Vallachir	Rs. 479640/-
2. Jose Vallachira	Rs. 287461/-
3. Sunil Perinchery	Rs. 175425/-
4. Davis Perinchery	Rs. 192699/-
5. Unnikrishnan Pattambi	Rs. 193873/-