

PAC Part V (1)

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

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

SEVENTY FIFTH REPORT

(Presented on 12th March, 2025)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2025**

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

SEVENTY FIFTH 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, 2014 (Revenue Sector)**

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COMMITTEE ON PUBLIC ACCOUNTS (2023-2026)

COMPOSITION

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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 Seventy Fifth 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, 2014 (Revenue Sector).

The Report of the Comptroller and Auditor General of India for the year ended 31st March, 2014 (Revenue Sector) was laid on the Table of the House on 11th March, 2015.

The Committee considered and finalised this Report at the meeting held on 07th February, 2025.

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

Thiruvananthapuram,
12th March, 2025.

SUNNY JOSEPH,
Chairperson,
Committee on Public Accounts.

REPORT
TAXES DEPARTMENT

1.1 Trend of revenue receipts

1.1.1. The tax and non-tax revenue raised by the Government of Kerala during the year 2013-14, 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- 1.1.1.

Table - 1.1.1.
Trend of revenue receipts

(₹ in Crore)						
Sl. No	Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
1.	Revenue raised by the State Government					
	• Tax revenue	17,625.02	21,721.69	25,718.60	30,076.61	31,995.02
	• Non-tax revenue*	1,852.22 (1,633.22)	1,930.79 (1,739.58)	2,592.18 (2,228.97)	4,198.51 (3,272.25)	5,575.03 (4,059.49)
	Total	19,477.24 (19,258.24)	23,652.48 (23,461.27)	28,310.78 (27,947.57)	34,275.12 (33,348.86)	37,570.05 (36,054.51)
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	4,398.78	5,141.85	5,990.36	6,840.65	7,468.68
	• Grants-in-aid	2,233.38	2,196.62	3,709.22	3,021.53	4,138.20
	Total	6,632.16	7,338.47	9,699.58	9,862.18	11,606.88
3.	Total revenue receipts of the State Government (1 and 2)	26,109.40 (25,890.40)	30,990.95 (30,799.74)	38,010.36 (37,647.15)	44,137.30 (43,211.04)	49,176.93 (47,661.39)
4.	Percentage of 1 to 3	75	76	74	78	76

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

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹ 37,570.05 crore) was 76 per cent of the total revenue receipts. The balance 24 per cent of the receipts during 2013-14 was from the Government of India.

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

1.1.2. The details of the tax revenue raised during the period 2009-10 to 2013-14 are given in Table - 1.1.2.

Table - 1.1.2.
Details of Tax Revenue raised

Sl. No	Head of revenue	(₹ in Crore)											
		2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+) or decrease (-) in 2013-14 over 2012-13	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
1.	0040-Tax on sales, trade etc.	12,733.94	12,770.89	15,125.69	15,833.11	19,427.90	18,938.83	23,450.52	22,511.09	28,456.62	24,885.25	21.35	10.55
2.	0030-Stamps and Registration fees	2,728.63	1,896.41	2,187.51	2,552.49	3,252.17	2,986.55	3,775.71	2,938.38	4,207.01	2,593.29	11.42	(-)11.74
3.	0041-Taxes on vehicles	958.63	1,131.10	1,301.88	1,331.37	1410.73	1,587.13	1,694.49	1,924.62	2,570.65	2,161.09	51.71	12.29
4.	0039-State Excise	1,440.52	1,514.81	1,836.21	1,699.54	2,059.05	1,883.18	2,550.65	2,313.95	2,801.75	1,941.72	9.84	(-)16.09
5.	0029-Land Revenue	52.50	53.93	155.13	55.97	162.84	60.75	127.72	121.58	135.49	88.78	6.08	(-)26.93
6.	0043-Taxes and duties on electricity	47.24	24.78	64.40	20.71	29.31	21.28	250.00	24.71	284.15	42.25	13.66	70.98
7.	0022-Taxes on agricultural income	8.52	27.73	12.00	46.97	14.49	42.86	15.98	18.92	23.99	21.55	50.13	13.90
8.	Others ⁺	258.30	205.37	289.04	181.53	285.06	198.02	257.14	223.36	291.44	261.09	13.34	16.89
	Total	18,228.28	17,625.02	20,971.86	21,721.69	26,641.55	25,718.60	32,122.21	30,076.61	38,771.10	31,995.02	20.70	6.38

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

The respective Departments reported the following reasons for variation. The data to back the reasons however has not furnished.

Tax on sales, trade etc.: There was increase in revenue receipts during the year as compared with the last year. The receipts showed a decrease when compared to budget estimates due to fall in collection from Kerala State Beverages Corporation, motor vehicles and rubber.

State Excise: The short fall in revenue over budget estimates was due to decrease in sale volume of liquor, beer, non issue of fresh FL-1 licences during the year. Though the actual collection during the year 2013-14 decreased drastically, the department failed to explain the reasons.

Stamp duty and Registration fees: The decrease in revenue during the year when compared to budget estimates and receipt of previous year was due to decrease in rate of stamp duty of exchange and conveyance deeds.

+ Taxes on immovable property other than agricultural land, Luxury tax and Entertainment tax.

Taxes and duties on electricity: The increase in revenue receipts for 2013-14 over 2012-13 was due to revised inspection fee, increase in arrear collection and increase in electricity duty due to increase in electricity charge. Non-remittance of electricity duty and surcharge by Kerala State Electricity Board resulted in short fall of receipts than the budget estimate.

Taxes on agricultural income: There was increase in revenue over previous year. The receipts showed a shortfall when compared to budget estimates due to fall in collection from cardamom.

The other Departments despite being requested (June 2014) did not furnish the reasons for variations in receipts from that of the previous year (October 2014).

1.1.3. The details of the non-tax revenue raised during the period 2009-10 to 2013-14 are indicated in Table 1.1.3.

Table - 1.1.3.
Details of Non-Tax Revenue raised

Sl. No	Head of revenue	(₹ in Crore)											
		2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+) or decrease (-) in 2013-14 over 2012-13	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
1.	0075- Miscellaneous General Services 103-State Lotteries	300.35	405.07	464.60	380.25	462.05	919.53	1,381.20	1,747.51	2,307.00 [‡]	2,280.15 [§]	67.03	30.48
2.	0406 - Forestry and Wild Life	227.80	272.80	360.11	274.10	330.12	220.52	321.26	237.33	328.83	329.95	2.36	39.03
3.	0202 - Education, Sports, Art and Culture	128.95	130.62	164.25	150.83	183.61	164.96	222.07	182.78	259.18	308.13	16.71	68.58
4.	Others "	629.23	824.73	1,095.35	934.40	1,306.25	923.96	1,092.08	1,104.63	1,333.56	1,141.26	22.11	3.32
	Total	1,286.33	1,633.22	2,084.31	1,739.58	2,282.03	2,228.97	3,016.61	3,272.25	4,228.57	4,059.49	40.18	24.06

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

[‡] From gross receipts (budget estimates) of ₹3,000 crore, expenditure on prize winning tickets of lotteries (Budget estimate) of ₹693 crore has been deducted, but other expenditure like commission to agents (budget estimate - ₹809 crore), establishment expenses (budget estimates - ₹200 crore) have not been deducted.

[§] From gross receipts of ₹3,795.69 crore, expenditure of ₹1,515.54 crore on prize winning tickets has been deducted, but other expenditure like commission to agents (₹1,256.49 crore), establishment expenses (₹210.65 crore) etc. have not been deducted.

" 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.

The Departments reported the following reasons for variation between the actual receipts over budget estimates for 2013-14 and also between receipts for 2013-14 over the receipts for 2012-13.

State Lotteries: The increase in gross revenue receipts during the year over the gross budget estimates for 2013-14 and the gross receipts for 2012-13 was due to restoration of lotteries on daily draw.

Forestry and Wild Life: Increase in revenue receipts over previous year was due to increase in sale of timber and its price.

The other Departments despite being requested (June 2014) did not furnish the reasons for variations in receipts from that of the previous year (October 2014).

[Audit paragraph 1.1 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

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

Excerpts from the discussion of Committee with officials concerned

1. The Commissioner, Taxes Department informed the Committee that there was no specific inference in that regard. The Committee accepted the reply of the department.

Conclusions/ Recommendations

2. No Comments.

1.2 Analysis of arrears of revenue

As per the details furnished by the departments concerned, the arrears of revenue as on 31 March 2014 under nine principal heads amounted to ₹7,529.67 crore. The details of revenue pending collection for more than five years were furnished by five departments only which amounted to ₹414.97 crore. In the remaining four cases, the details were not furnished by the departments. The details are given in the Table – 1.2.

Table - 1.2.
Arrers of Revenue

(₹ in crore)

Sl.No.	Head of revenue	Total amount outstanding as on 31 March 2014	Amount outstanding for more than 5 years as on 31 March 2014	Replies of Departments
1.	0040-Tax on sales, trade etc	6,516.49	Not furnished	Not furnished by the Department
2.	0029-Land Revenue	299.43	Not furnished	Not furnished by the Department
3.	0022-Taxes on Agricultural Income	49.42	Not furnished	Not furnished by the Department
4.	0406-Forestry and Wildlife	278.96	165.75	The Department stated (August 2014) that steps to recover arrears of revenue have been taken against the defaulters through District Collectors concerned. To realise defaulted arrears of lease rent and other dues from departments and Public Sector Undertakings (PSUs), necessary action has been taken to realise the same through discussions at Government level. An amount of ₹ 0.67 crore is due from Government of India, ₹ 0.27 crore from other State Governments, ₹3.36 crore from PSUs of Government of India, ₹261.47 crore from PSUs of Government of Kerala and other States and ₹ 13.18 crore from individuals, private companies etc.
5.	0039-State Excise	187.86	187.86	The Department stated (July 2014) that it had taken revenue recovery action and introduced Amnesty Scheme for speedy recovery of arrears. The abkari arrears due are ₹0.53 lakh from PSUs of Government of Kerala, ₹ 187.33 crore from individuals, private firms, private companies etc.
6.	0055-Police	151.43	51.53	The Department stated (June 2014) that the nature of arrear is cost of police guard and the arrears have been demanded and follow up action is being taken to realise the arrears. An amount of ₹68.12 crore is due from Government of India, ₹0.28 crore from other State Governments, ₹50.97 crore from PSUs of Government of India, ₹30.55 crore from PSUs of Government of Kerala and ₹1.52 crore from individuals, private firms, private companies etc.
7.	0070-60-110-Fees for Government audit	30.48	Not furnished	The Local Fund Audit Department stated (July 2014) that to realise the arrears from various auditee institutions, proposals have been submitted to Government, strict instructions have been sent to the auditee institutions to remit the pending audit charge and demand notices are being sent to them. The arrears of revenue pending collection towards audit charge are ₹14.27 crore from universities, ₹1.47 crore from Devaswoms, ₹0.78 crore from temples and ₹13.97 crore from miscellaneous and other institutions.

8.	0058-Stationery and printing	14.97	9.66	The Department stated (July 2014) that the defaulters are being reminded regularly to remit the arrears. The amounts due are ₹0.16 crore from Government of India, ₹0.02 crore from PSUs of Government of India and ₹0.96 crore from Government of Kerala.
9.	0853-Non-Ferrous Mining and Metallurgical Industries	0.63	0.17	The Mining and Geology Department stated (June 2014) that the delay in collection of revenue was due to disputes regarding claims, court stays and Government stays. It has stated that steps are under way to redress the disputes and to vacate the stays. The arrears of revenue pending collection are ₹2.09 lakh from Co-operative Society, ₹25.92 lakh from PSUs of Government of Kerala and ₹35.10 lakh from individuals, private firms, private companies etc.
	Total	7,529.67	414.97	

No details have been furnished by other Departments (October 2014) despite being requested (June 2014).

[Audit paragraph 1.2 contained in the Report of the Comptroller and Auditor General of India on 'Revenue Receipts for the year ended 31st March, 2014]

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

Excerpts from the discussion of Committee with officials concerned

3. The Commissioner, Taxes Department informed the Committee that out of the total arrears of ₹13,778.97 crore in March 2022, ₹7268 crore (53 per cent) was in Revenue Recovery stage, ₹4682 crore was in stay and about ₹1800 crore (13 percent) was in the stage of correction or modification by the auditors. He added that the Taxes Department had framed a group to undertake the follow up action on revenue recovery proceedings and a detailed analysis had been made to determine the recovery that was to be effected. He submitted that approximately ₹7268 crore was to be collected from around 15000 cases. He further stated that around ₹2021 crore was expected to be collected from 100 cases involving ₹5 crore or more, ₹964 crore from 485 cases involving ₹1 to 5 crore and approximately ₹230 crore from about 600 cases of ₹50 lakh. If just 2000 cases were taken, more than ₹3,000 crore would be received and Taxes Department was now moving forward with a clear strategy and analysis of the cases.

4. When the Committee enquired whether any effort was being made to dispose off those cases, the Commissioner, Taxes Department replied that the department was actively pursuing the cases. The department had a special officer in the rank of Additional Commissioner in the old sector who was pursuing the cases and in the new sector the Special Commissioner would follow up on the pending cases.

5. The Secretary, Taxes Department informed the Committee that a meeting of the Tribunal, consisting of District Judges on VAT cases was held at Ernakulam and High Court Judges were monitoring such cases. The department was taking steps to dispose of the cases quickly and necessary infrastructure assistance and other things were also provided for the same.

6. The Commissioner, Taxes Department added that the pending cases with regard to Public Sector Undertakings were also included in that category and approximately an amount of ₹567 crore remained to be recovered from 9 PSUs of the Government of Kerala.

7. The Committee enquired whether the dues from the Water Authority and the KSEBL were also included in that category. The Commissioner, Taxes Department informed the Committee that KSEBL was included in that category and out of ₹567 crore, ₹460 crore belongs to the Kerala State Beverages Corporation. He added that such cases could be settled after discussing the issue with their respective department heads.

Conclusion/ Recommendation

8. No Comments.

1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year 2013-14 furnished by the Commercial Taxes Department were as shown in Table - 1.3

Table - 1.3.

Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2013-14	Total assessment cases due	no.of assessment cases assessed during 2013-14	Balance at the end of the year	Percentage of assessments done (col.5 to 4)
1	2	3	4	5	6	7
0040-Tax on sales, trade, etc.	7,042	6,206	13,248	8,197	5,051	61.87
0022-Taxes on agricultural income	4,473	1,966	6,439	3,083	3,356	47.88

During the year 2013-14, the Commercial Taxes Department completed 61.87 per cent and 47.88 per cent of assessments on sales tax and agricultural income tax respectively.

The item wise details of arrears in assessments such as motor spirit tax, luxury tax, tax on works contracts etc. called for (September 2014) were not furnished by the Commercial Taxes Department (October 2014).

The details of arrears in assessment in respect of building tax and plantation tax called for (June 2014) from Revenue & Disaster Management Department were not furnished till date (October 2014).

[Audit paragraph 1.3 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

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

Excerpts from the discussion of Committee with officials concerned

9. The Commissioner, Taxes Department informed the Committee that taxation system had undergone many changes in various stages and one of the issues that arose during that evolution was cascading taxation. When K-VAT was introduced, cascading taxation was somehow avoided. The difference in the tax rates in Kerala and Karnataka posed a difficulty which was resolved when GST was introduced and that effectively resolved the issue of cascading taxation. The

transition from 100% assessment to self declaration made by K-VAT was a significant development. The decision was to conduct a scrutiny of all dealers once every five years and if there were any observation, a detailed assessment may be carried out. The actions in that regard were now ongoing and instructions were being given to complete the assessment immediately.

Conclusion/ Recommendation

10. No Comments.

1.4 Evasion of tax detected by the department

The details of cases of evasion of tax detected by the Excise Department, cases finalised and the demands of additional tax raised as reported by the Department are given in Table - 1.4.

Table - 1.4.
Evasion of Tax

Sl.No	Head of revenue	Cases pending as on 31 March 2013	Cases detected during 2013-14	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 2014
					Nmbor of cases	Amount of demand	
1.	0039-State Excise	840	1	841	46	235.70	795

The Power Department stated (October 2014) that no case of evasion of tax was detected by the Department.

The details of cases of evasion of tax detected though called for by Audit (August 2014) have not been furnished by other departments (October 2014).

1.5 Pendency of Refund cases

The details of refund cases pending at the beginning of the year 2013-14, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2013-14 as reported by the Excise Department are given in Table - 1.5.

Table -1.5
Details of pendency of refund cases

(₹ in crore)

Sl.No.	Particulars	State Excise	
		No.of cases	Amount
1.	Claims outstanding at the beginning of the year 2013-14	7	2.79
2.	Claims received during the year	0	0
3.	No. of cases in which refund made during the year	3	1.11
4.	Balance cases outstanding at the end of the year 2013-14	4	1.68

The details of refund cases called for from Commercial Taxes Department (August 2014) have not been furnished (October 2014).

1.6 Analysis of stay granted

The categorisation of arrears of revenue which were under various stages of collection revealed that the arrears pending collection as on 31 March 2014 included collections stayed by various authorities at various stages in respect of some principal heads of revenue as detailed in Table - 1.6.

Table - 1.6
Stages of stay granted

(₹ in crore)

Sl. No.	Head of revenue	Total arrear amount	Stage wise details of stay			Total amount under stay	% of stay to total arrear
			Stay by court	Stay by Government	Stay by Appellate Authorities		
1.	0040-Tax on sales, trade etc.	6,516.49	1,251.27	221.46	1,671.11	3,143.84	48.24
2.	0022-Taxes on Agricultural Income	49.42	15.90	17.83	5.59	39.32	79.56
3.	0039-State Excise	187.86	12.58	0	0	12.58	6.70
4.	0029-Land Revenue	299.43	47.16	39.63	12.69	99.48	33.23
	Total	7,053.20	1,326.91	278.92	1,689.39	3,295.22	46.72

The details though called for (September 2014), have not been furnished by other Departments (October 2014).

1.7 Response of the Government/ departments to audit

The 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 promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

Inspection reports issued upto December 2013 disclosed that 23,324 paragraphs involving financial implication of ₹6,018.52 crore relating to 3,027 IRs were outstanding at the end of June 2014 as mentioned below with the corresponding figures for the preceding two years in Table - 1.7.

Table - 1.7.
Details of pending Inspection Reports

	June 2012	June 2013	June 2014
Number of IRs pending for settlement	2,751	2,906	3,027
Number of outstanding audit observations	20,629	22,189	23,324
Amount of revenue involved (₹ in crore)	2,102.05	2,794.17	6,018.52

1.7.1. The Department-wise details of the IRs and audit observations outstanding as on 30 June 2014 and the amounts involved are mentioned in the Table - 1.7.1.

Table - 1.7.1
Department-wise details of IRs

Sl. No.	Name of the Departments	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Taxes	Tax on sales, trade etc.	1,592	18,024	2,651.96

(₹ in crore)

		Taxes on agricultural income	168	781	89.87
2.	Revenue and Disaster Management	Land revenue	352	1,511	1.98
3.	Transport	Taxes on vehicles	314	1,736	53.37
4.	Registration	Stamp duty and registration fees	353	706	9.74
5.	Excise	Excise duty	213	466	33.66
6.	Power	Taxes and duties on electricity	18	78	3,176.24
7	Lotteries	Lotteries	17	22	1.70
Total			3,027	23,324	6,018.52

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of the IRs for 112 IRs issued during 2013-14. 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 AG in the IRs.

1.7.2. Departmental audit committee meetings

The Government has set up audit committees to monitor and expedite the progress of settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2013-14 and the paragraphs settled are mentioned in Table - 1.7.2.

Table - 1.7.2.
Details of Departmental audit committee meetings

Head of revenue	Number of meetings held	No. of audit observations pending as on 31 March 2013	Number of paragraphs settled	Amount involved in settled paras
0041-Taxes on vehicles	5	1,540	317	4.08
0040-Tax on sales, trade etc.	1	18,246	215	3.76
0030- Stamps and registration fees	1	811	7	0.02
0029-Land revenue	2	1,504	64	0.38
Total	9	22,101	603	8.24

(₹ in crore)

The progress of settlement of paragraphs pertaining to the Commercial Taxes Department, Registration Department and Revenue and Disaster Management Department was negligible compared to the huge pendency of the local audit reports and paragraphs despite holding departmental audit committee meetings.

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 2013-14, as many as 5,653 assessment files, refunds, registers and other relevant records were not made available during audit of offices under Commercial Taxes Department. Break up of these cases are given in Appendix III(1).

In respect of other departments, no cases of non-production of records have been noticed.

[Audit paragraphs 1.4, 1.5, 1.6, 1.7, 1.7.1, 1.7.2 and 1.7.3 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

[Notes Submitted by the Government on the above audit paragraphs are included as Appendix II]

Excerpts from the discussion of Committee with officials concerned

11. The Secretary, Taxes Department informed the Committee that although the relevant documents could not be produced within the time limits given by the AG, they had been submitted in the subsequent audit. If any deficiencies were found, steps would be taken to rectify them.

Conclusion/ Recommendation

12. No Comments.

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 Accountant General

to the Principal Secretaries/ Secretaries of the respective departments drawing their attention to audit findings and requesting their response within six weeks. The fact of non-receipt of the replies from the Departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Ninty five draft paragraphs were sent to the Principal Secretaries/Secretaries of the respective departments by name between July and October 2014. The Principal Secretaries/Secretaries of the Department did not send replies to 80 draft paragraphs despite issue of reminders (October 2014) and the same have been included in this Report without the response of the Department. This is indicative of lack of seriousness of State Government Departments towards Audit observations.

[Audit paragraph 1.7.4 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

[Notes Submitted by the Government on the above audit paragraph are included as Appendix II]

Excerpts from the discussion of Committee with the officials concerned

13. The Secretary, Taxes Department informed the Committee that the details requested in the draft paragraph had been provided. The Committee accepted the reply.

Conclusion/ Recommendation

14. No Comments.

1.7.5 Follow up on the Audit Reports-summarised position

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 204 paragraphs 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 2008, 2009, 2010, 2011 and 2012 were placed before the State Legislative Assembly between 03 March 2009 and 19 March 2013. The action taken explanatory notes from the Departments concerned on these paragraphs were received late in respect of each of these Audit Reports. Action taken explanatory notes in respect of 32 paragraphs from four departments (Commercial Tax, Revenue and Disaster Management, Motor Vehicles, Excise) had not been received for the Audit Report for the year ended 31 March 2013 so far (October 2014).

The PACs discussed 123 paragraphs pertaining to the Audit Reports for the years from 2008 to 2012 and its recommendations on 119 paragraphs were incorporated in the Reports brought out during their respective tenure for the period 2008-16. However, ATN have not been received in respect of 75 recommendations of the PACs from the Departments concerned as mentioned in the Table - 1.7.5.

Table - 1.7.5.

Year of PACs*	Name of Department									Total
	Taxes	Excise	Transport	Land Revenue	Forest & Wildlife	Finance	Home	Education	Power	
2008-11	4	-	-	4	-	-	-	-	-	8
2011-14	14	1	12	12	-	-	-	-	2	41
2014-16	20	-	-	-	2	1	2	1	-	26
Total	38	1	12	16	2	1	2	1	2	75

*Year represent the tenure of the PAC

[Audit paragraph 1.7.5 contained in the Report of Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

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

Excerpts from the discussion of Committee with officials concerned

15. The Secretary, Taxes Department informed that follow-up was being done properly. The department had submitted all action taken explanatory notes on recommendations of the Public Accounts Committee and audit paragraphs for the periods mentioned. The additional information sought for on the four reports would be provided immediately.

Conclusion/ Recommendation

16. No Comments.

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

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

The following two paragraphs discuss the performance of the Motor Vehicles Department under revenue head 0041- Taxes on vehicles 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 2003-04 to 2012-13.

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 2014 are tabulated below in Table – 1.8.1.

Table - 1.8.1
Position of Inspection Reports

Sl No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance		
		IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
1	2003-04	431	2,253	10.57	65	535	3.24	55	624	1.07	441	2,164	12.74
2	2004-05	441	2,164	12.74	66	646	2.69	251	1432	6.43	256	1,378	9.00
3	2005-06	256	1,378	9.00	64	513	2.72	42	470	0.40	278	1,421	11.32
4	2006-07	278	1,421	11.32	72	522	3.10	78	585	4.34	272	1,358	10.08
5	2007-08	272	1,358	10.08	61	505	2.11	34	503	1.32	299	1,360	10.87
6	2008-09	299	1,360	10.87	66	689	2.72	83	609	3.52	282	1,440	10.07
7	2009-10	282	1,440	10.07	64	656	9.84	97	904	3.44	249	1,192	16.47
8	2010-11	249	1,192	16.47	63	683	8.19	27	388	2.70	285	1,487	21.96
9	2011-12	285	1,487	21.96	64	674	14.34	58	526	2.87	291	1,635	33.43
10	2012-13	291	1,635	33.43	68	571	9.51	74	666	5.19	285	1,540	37.75

The Government arranges audit committee meetings between the Department and office of the Accountant General to settle the old paragraphs. As would be evident from the above table, against 431 outstanding IRs with 2253 paragraphs as on start of 2003-04, the number of outstanding IRs decreased to 285 with

1540 paragraphs at the end of 2012-13. This is indicative of the fact that appropriate steps were taken by the Department in this regard resulting in reduction of the old outstanding IRs and paragraphs.

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 – 1.8.2.

Table - 1.8.2

							(₹ 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 31.03.2013	
1	2003-04	5	9.31	5	9.31	0.04	0.04	
2	2004-05	7	1.45	4	0.33	0.01	0.01	
3	2005-06	3	0.28	1	0.02	-	-	
4	2006-07	1	0.18	1	0.18	-	-	
5	2007-08	1	0.70	1	0.70	-	0.20	
6	2008-09	16	2.36	6	1.52	0.09	0.12	
7	2009-10	8	362.78	1	0.14	-	0.04	
8	2010-11	5	1.11	5	1.11	0.31	0.51	
9	2011-12	5	1.78	5	1.78	0.03	0.14	
10	2012-13	5	1.69	5	1.69	0.04	0.04	

It is evident from the above table that the progress of recovery in accepted cases was slow throughout the last ten years. The recovery of accepted cases was to be pursued as arrears recoverable from the parties concerned. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government. Further, the arrear cases including accepted audit observations were not available with the office of the Commissioner, Motor Vehicles Department. In the absence of a suitable mechanism, the Department could not monitor the recovery of accepted cases.

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

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

The details of reviews on the Departments of Commercial Taxes, Excise and Transport featured in the Reports for the last five years along with recommendations and their status are given in Appendix III(2).

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 and other parameters. The annual audit plan was prepared on the basis of risk analysis which inter-alia include 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 2013-14, there were 840 audit units, of which 432 units were planned and 414 units had been audited, which is 49.29 per cent of the total audit units. Due to diversion of large number of staff to election duty and resultant shortage of staff, 18 planned units could not be audited.

1.11 Results of Audit

Position of local audit conducted during the year

Test check of the records of 403 units[#] of Sales Tax/Value Added Tax, State Excise, Motor Vehicles and other Departmental offices conducted during the year 2013-14 showed under-assessment/short levy/loss of revenue aggregating ₹484.91 crore in 2,481 cases. During the course of the year, the Departments concerned accepted under-assessment and other deficiencies of ₹18.26 crore involved in 277 cases which were pointed out in audit during 2013-14. The Departments collected ₹17.82 crore in 922 cases during 2013-14, pertaining to the audit findings of previous year.

1.12 Coverage of this Report

The Report contains 30 Paragraphs involving financial effect of ₹98.13 crore. The Department/Government have accepted audit observations involving ₹27.33 crore out of which ₹ 0.98 crore had been recovered. The replies in the remaining cases have not been received (October 2014). These are discussed in succeeding Chapters-II to VII.

In the case of remaining 14 units, IRs were issued during the year 2014-15.

[Audit paragraphs 1.8, 1.8.1, 1.8.2, 1.9,1.10,1.11 and 1.12 contained in the Report of Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

[Notes submitted by the Government on the above audit paragraphs are included as Appendix II]

Excerpts from the discussion of Committee with officials concerned

17. The Secretary, Taxes Department informed the Committee that timely actions had been taken in all the cases, and a stand-alone report that was pending for clearance had also been rectified.

Conclusions/ Recommendations

18. No Comments.

Chapter II

TAXES/ VAT ON SALES, TRADE ETC.

2.1 Tax Administration

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

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

2.2 Internal Audit

The details on working of internal audit wing, though called for, (June 2014) have not been furnished by the Department (October 2014).

2.3 Results of audit

Test check of the records of 154 units in 2013-14 relating to KVAT/KGST assessments and other records showed underassessment of tax and other

irregularities involving ₹429.35 crore in 1,882 cases which fall under the following categories given in Table – 2.1.

Table - 2.1

Sl. No.	Categories	(₹ in crore)	
		Number of cases	Amount
1.	Turnover escaping assessment	878	181.46
2.	Application of incorrect rate of tax	93	47.95
3.	Grant of irregular exemption	260	25.80
4.	Grant of excess input tax credit	156	4.53
5.	Incorrect grant of concessional rate of tax	14	4.86
6.	Non/short levy of Interest	4	0.03
7.	Other lapses	477	164.72
	Total	1,882	429.35

During the course of the year, the Department accepted underassessment and other deficiencies involving ₹30.07 crore in 410 cases which were pointed out in audit during the earlier years. An amount of ₹12.03 crore was realised in 599 cases during the year 2013-14. A few illustrative cases involving ₹75.52 crore are discussed in the following paragraphs.

[Audit paragraphs 2.1, 2.2 and 2.3 contained in the Report of Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

[Notes submitted by the Government on the above audit paragraph are included as Appendix II]

Excerpts from the discussion of Committee with officials concerned

19. The Secretary, Taxes Department informed the Committee that an internal audit wing was constituted in May, 2009, with its headquarters in Thiruvananthapuram and regional offices in Ernakulam, Thrissur and Kozhikode and senior officials who were aware of conducting scrutiny were deputed there. A policy that had been adopted was that the audit return should be provided in cases where the assessment amount is more than ₹60 lakhs and focus should be given to such cases. When GST came to effect in 2017, an e-audit was conducted in 38 units and State-wide audit paras were generated. From the original GST to

K-VAT had been decided that the entire files does not need to be audited, only certain cases are to be audited. 140 audit teams had been newly formed in GST and the target was fixed at 5% (12300 cases) of the total subscriber base. He also added that audit was the most important component of restructuring and it would save a substantial amount of money in the future.

20. The Commissioner, Taxes Department informed the Committee that, while conducting audits, each case was taken by examining more data and that is seen to be more effective. It was also intended to conduct an audit in GST as well, as per the Central Audit Manual.

Conclusions/ Recommendations

21. No Comments.

Value Added Tax

2.4 Short remittance of tax due to short accounting of purchase/sales turnover

Purchase turnover/ sales turnover was not accounted fully resulting in short payment of tax

Rule 22(1) and (2) of KVAT Rules, 2005 stipulates that every dealer should file periodical and annual return showing the details of total, exempted and taxable turnover, output tax due/collected, input tax credit availed of, net tax due including reverse tax and tax paid during the return period. Section 42(2) of KVAT Act, 2003 states that where any dealer detects any omission or mistake in the annual return with reference to the audited figures, he shall file revised return rectifying the mistake along with proof of payment of differential tax, if any. As per Section 25 of KVAT Act, 2003 if whole or any part of the turnover has escaped assessment to tax, the assessing authority may, at any time within five years from the last date of the year to which the return relates, proceed to determine, to the best of its judgement, the turnover which has escaped assessment to tax and assess the tax payable on such turnover. As per Section 67(1)(d) of KVAT Act, 2003 submission of untrue or incorrect return will attract penalty up to twice the amount of tax or other amount evaded or sought to be evaded.

- **(11 CTOs¹)**

Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest² of ₹ 22.31 crore. Maximum penalty leviable worked out to ₹32.37 crore as given in Appendix III(3).

When the case was pointed out to the Department in September 2014, it was stated that a detailed report would be furnished soon after the verification from the offices concerned. The case was reported to Government in September 2014. Their reply has not been received (October 2014).

- **(31 CTOs³)**

Audit compared the aggregate figures of sales and stock transfer as per the returns filed by the dealers with that of the certified statement of particulars filed in Form No. 13A enclosed with audit certificate and found that in 72 cases of 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No. 13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and the same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to ₹22.09 crore. Penalty of ₹29.93 crore was also leviable in above cases as shown in Appendix III(4).

When the case was pointed out to the Department in September 2014, it was stated that a detailed report would be furnished soon after the verification from the offices concerned. The case was reported to Government in September 2014. Their reply has not been received (October 2014).

1 CTOs Special Circle, Alappuzha, Aluva, Kannur, Kottayam, Mattancherry, Thiruvananthapuram and Thrissur, Special Circle I, Ernakulam, Kozhikode, Special Circle III, Ernakulam, Special Circle (Produce), Mattancherry.

2 Interest in all cases is calculated from May of next financial year and upto the month preceding the month in which audit pointed out the case.

3 CTOs Anchal, Attingal, Cherthala, Kayamkulam, Kodungallur, Kunnankulam, Thaliparamba, Vadakara, I Circle, Alappuzha, Thiruvananthapuram, II Circle, Ernakulam, Kannur, Kozhikode, Thiruvananthapuram, III Circle Ernakulam, IV Circle Ernakulam, Kozhikode, Special Circle Alappuzha, Kannur, Kollam, Kottayam, Mattancherry, Palakkad, Thrissur, Thiruvananthapuram, Special Circles I Ernakulam, Kozhikode, II Ernakulam, Kozhikode, III Ernakulam and AIT & CTO Alappuzha.

[Audit paragraph 2.4 contained in the Report of Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

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

Excerpts from the discussion of Committee with officials concerned

22. The Commissioner, Taxes Department informed the Committee that the said paragraphs were serialised according to the types of mistakes detected, and out of 23 cases, one case was found to be sustainable, one was partially sustainable and all other 21 cases were non-sustainable. The detailed examination of the cases revealed that a misinterpretation had occurred in some of the items written by the dealers while filing the returns. According to Section 6 (2), if we purchased an item from an unregistered dealer, tax must be paid regardless of whether it was taxable or not. So, the dealer would show it as a taxable item in the return. There was a separate column for the taxable items and the dealer would show all his purchases in another column for annual returns where the Input Tax Credit (ITC) was not available. In cases where the dealer had taken an item from a registered dealer, they could claim the Input Tax Credit. However, in some instances, there had been a misinterpretation of 6(2) income as purchase or sales, and the same had not been accurately recorded, and that was the why 21 cases were deemed as non-sustainable.

23. Regarding the case related to Karakkattu Agencies, 32120203072 (2010-2011), CTO, Special Circle, Kannur, the Additional Commissioner, GST Department informed that the entire sale of the dealer should be shown in column A and the tax at the time of purchase should not be paid as it was exempted. The point of taxation was at the point of sale and purchases from unregistered dealers were taxable, and should be shown in column A, while purchases from registered dealers should be shown in column C. There had been duplication as the 6(2) purchase from unregistered dealers had been shown in both the columns.

24. The Commissioner, Taxes Department added that in all the 23 cases cited by the AG, purchase under section 6(2) from unregistered dealers had been accounted for twice, resulting in total purchases being higher than the total sales, which was shown in the column.

25. The Additional Commissioner also informed the Committee that even though the purchase under Section 6(2) was ₹27.56 crore, due to duplication it was shown as ₹54.11 crore. Furthermore, purchases from registered dealers were shown as ₹66 crore instead of ₹32 crore. That could potentially result in the dealers receiving more benefits from the government by showing non-existent purchases and upon verification, it was found that only the Input Tax of the actual purchase had been considered in the return.

26. When the Committee enquired whether the reconciliation of purchase details had been done with books of accounts, the Additional Commissioner, GST Department replied that the details regarding purchases were available online. The assessing authority had taken a decision in that regard after examining the actual book of accounts, invoices and vouchers. The Committee decided to drop the audit observation.

27. Regarding the case related to Flash Traders, 32120260795, (2009-10), CTO, Special Circle, Kannur, the Additional Commissioner, GST Department informed the Committee that it was a non-sustainable case and the AG had found a short levy of ₹ 59 lakhs, where the purchase of ₹ 9.61 crore under Section 6(2) had been shown in column A and column C. The assessing authority had checked and ensured that input tax had been levied only on the actual purchase. To a query from the Committee regarding the completion of assessment, the Additional Commissioner, GST Department replied that the self-assessment and the assessment based on the AG's objection have to be done.

28. Regarding the case related to Vishal Export, 32150336185, (2009-10), CTO, Special Circle (Produce), Mattancherry, the Additional Commissioner, GST Department informed the committee that an objection to an amount of ₹1.93 crore had been raised by AG and the discrepancy was due to a clerical error in placing points while uploading the purchase/sales figures. A purchase made in July, 2009 for an amount of ₹2.57 crore was wrongly entered in the book as ₹25 crore. It was verified and confirmed. The Committee accepted the reply furnished by the department.

29. In respect of the case related to Njavallil Latex Pvt. Ltd., 32150350585 (2009-10), CTO, Aluva, the Additional Commissioner, GST Department informed the Committee that the rubber cess was shown in excess in the annual

return. Instead of showing the amount under Taxes and Cess head, it was included in the purchase column in the audited statement and the assessing authority had ascertained the same. He also added that digitization of VAT had started in January 2009 and that many complications had arisen in the beginning. He further submitted that the same was also happening with GST and such errors were being corrected during scrutiny. He added that it was an observation during the financial year 2009-10, when e-filing was started. The Committee accepted the reply furnished by the department.

30. While discussing the case related to Evergrowing Iron & Finvest Ltd., 32070247424, (2011-12), CTO, Special Circle I, Ernakulam, the Committee inquired about the present status of the stay order dated 06.03.2014. The Commissioner, Taxes Department informed the Committee that the current status of the stay order would be checked and informed. The above audit para had been modified after the completion of the original assessment. Some cases under the observation of AG could not be completed by the assessing authority in a time-bound manner, and when it was assessed by an expert authority, it would be proved at the appellate stage that there was no defect in it, and then it would be modified again. The interstate purchase of ₹22.84 crore had been written in the updated position as ₹2.84 crore in the audited statement.

31. While discussing the case related to Hindustan Organic Chemicals Ltd., Phenol Unit, Ambalamugal P.O., 32070430405, (2011-12), CTO, Special Circle III, Ernakulam, the Additional Commissioner, GST Department informed the Committee that after completing the assessment a demand of ₹7.11 crore, including tax of ₹4.9 crore and interest of ₹2.2 crore were made. The original demand was revised by the appellate authority and ₹2.24 crore was paid on 20.08.2020. The Committee accepted the reply furnished by the department

32. Regarding the case related to Trinethra Super Retail Private Ltd., 32070482504 (2011-12), CTO, Special Circle III, Ernakulam, the Additional Commissioner, GST Department informed the Committee that as per the revised certificate of the auditor, differential turnover was due to a mistake. The difference was due to the sale of goods of non-taxable items like milk and fruits. The demand was modified and the amount was paid. The Committee accepted the reply furnished by the department.

33. Regarding the case related to Acer India Pvt. Ltd., 32070485384, (2011-12), CTO, Special Circle III, Ernakulam, the Additional Commissioner informed the Committee that the demand had been modified as it was found that a clerical error had occurred. The Committee accepted the reply furnished by the department.

34. Regarding the cases related to Kancor Ingredients Limited, 32150238895, (2011-12), CTO, Special Circle, Mattanchery, the Additional Commissioner, GST Department informed that in the audited statement, raw materials, semi-finished goods and consumables were accounted as expenditures and would appear in a different column. But in the annual return, whether it was spares or consumables they should come under the purchase column and the difference of that amount had come there. The Committee accepted the reply furnished by the Department. The Committee also accepted the reply furnished in respect of M/s Kancor Ingredients Limited, 32150238895 (2009-10), CTO, Special Circle, Mattanchery,

35. Regarding the cases related to M.P.R Mercantile Syndicate, 32081470975, (2010-11), CTO, Special Circle, Thrissur, the Additional Commissioner, GST Department informed that it was a consignment sale and the value in the transfer of documents at the time of bringing the goods would not be the actual price, and that was shown in the return. When the actual invoice comes later, it should be shown in auditing and the problem was that the actual price was shown in the return. The Committee accepted the reply furnished by the department. The Committee also accepted the reply furnished by the department in respect of M/s M.P.R. Mercantile Syndicate, 32081470975, (2011-12), CTO, Special Circle, Thrissur.

36. Regarding the case related to Hil Limited, 32080252004, (2011-12), CTO, Special Circle, Thrissur, the Additional Commissioner, GST Department informed the Committee that although central excise duty and freight charges were part of the purchase, they were entered in separate column in auditing. The value of actual purchase was calculated in one column and the remaining charges were included in the other and the figures were tallied when consolidating both columns. An officer from AG's office asked whether the actual value including excise duty had to be shown in 13A of the audit statement. The Additional Commissioner, GST Department replied that excise duty would be shown in a

separate column and capital goods would not come in 13A. The Committee accepted the reply furnished by the department.

37. Regarding the case related to EICL Limited, 32010125905, (2011-12), CTO, Special Circle, Thiruvananthapuram, the Additional Commissioner, GST Department informed that as per annual return, purchase turnover includes consumables, office stationery, fuel, packing materials, repairs, fixed assets and other manufacturing materials. But in the auditing account, all these items were shown as expenditures and capital goods in a separate column. The Assistant Audit officer added to the discussion by saying that there was a difference of ₹1.44 crore in the total amount of particulars of purchase. The Commissioner, Taxes department deposed that the reply would be given in its next meeting after verifying the matter in detail.

38. Regarding the case related to Duro Flex Pvt. Ltd., 32040231985, (2011-12), CTO, Special Circle, Alappuzha, the Commissioner, Taxes Department informed the Committee that the said case was sustainable. He added that 20 per cent of the excess demand (₹32 lakh) had been paid, and the appeal filed by the dealer was pending in the Hon'ble High Court.

39. The Committee examined and approved the reply submitted by the government on cases related to Watts Electronics (Pvt.) Ltd, 32071694602, (2010-11), CTO, Special Circle I, Ernakulam, FCI OEN Connectors Ltd, 32070418694, (2009-10), CTO, Special Circle III, Ernakulam, Thomson Rubbers India Pvt. Ltd., 32050222064, (2011-12), CTO, Special Circle, Kottayam, United Oil Industries, 32150294515, (2009-10), CTO, Special Circle, Mattancherry, Anna Aluminium Co. (P) Ltd., 32150223134, (2010-11), (2011-12), CTO, Special Circle, Mattancherry, Parekkadens Enterprises, 32080579784, (2010-11), CTO, Special Circle, Thrissur, Plymica Ltd., 32110279492, (2011-12), CTO, Special Circle I, Kozhikode.

40. The Committee decided to postpone the consideration of 72 cases in Appendix III(4) to its next meeting. The Secretary, Taxes Department pointed out that there were many such cases related to GST left for consideration by PAC. The Secretary then suggested that it would be ideal if AG and GST officials do a joint screening of each case before the next PAC meeting. Afterwards, the outstanding cases could be discussed in the Committee. The Committee upheld that opinion.

41. To a query of the Committee regarding the case related to Asian Paints limited, 32070289814, (2010-11), CTO, Special Circle I, Ernakulam, the Commissioner, Taxes Department informed that a demand notice had been issued and it was in revenue recovery stage. When the Committee enquired about the present status of revenue recovery proceedings and the reason for the delay in its completion, the Commissioner, Taxes Department replied that two or three recovery proceedings were pending under the concerned Collector and the department was taking steps to complete the recovery proceedings at the earliest. He added that more focus should be given to the major cases.

42. The Committee evaluated that without a fixed time limit, revenue recovery procedures would be endlessly prolonged, become irrelevant and cause significant losses to the exchequer. The Committee opined that all recoveries, free from the court intervention be reported to the government by completing the recovery procedures within the specified time. The Commissioner, Taxes Department replied that the matter would be brought to the attention of the District Collectors in the meeting.

43. The Committee observed that in the case of common people, officials completed all the steps, including the confiscation of land, very quickly, but in the case of large companies and corporates, there was an endless delay. The Committee reminded that the case in question was related to 2010-11 period. The Commissioner, Taxes Department informed that the assessment was completed in August 2012 and a tax of ₹9.64 lakh and interest of ₹1.63 lakh was demanded to be paid.

44. When the Committee enquired whether it was possible to levy penal interest for the period of delayed recovery proceedings, the Commissioner, Taxes Department replied that it would be informed after examining the matter. The Committee directed that a report on the current status of revenue recovery proceedings be made available and the Commissioner, Taxes Department replied in the affirmative.

45. To a query of the Committee in respect of the case related to ASK Rathnasamy Nadar, 32071659412, (2010-11), CTO, Special Circle I, Ernakulam, the Commissioner, Taxes Department informed that the case was sustainable and the amount due and interest thereon was reassessed as ₹11.23 lakh and ₹7.76 lakh respectively and the entire amount had been included in the amnesty scheme and paid.

46. Regarding the case related to Falcon Tyres Ltd., 32070344725 (2010-11), CTO, Special Circle II, Ernakulam, the Commissioner, Taxes Department informed that the assessment was completed in 2017 and thereafter ₹2.61 crore was demanded as tax and ₹2 crore as interest and the revenue recovery process was under way. To the Committee's query about the current status of revenue recovery proceedings and the reason for the delay in completing the RR proceedings, the Commissioner, Taxes Department replied that after giving the request of conducting RR proceedings to the respective District Collectors, the officials of the department had taken the necessary follow-up steps, but no information was currently available from the District Collector regarding the said case. He further added that the reply would be submitted within one month after collecting information from all the District Collectors who had not yet finished the RR proceedings.

47. To a query of the Committee regarding the case related to PAN Marketing, 32050274455 (2009-10), CTO, Special Circle, Kottayam, the Commissioner, Taxes Department replied that the dealer had filed an appeal against it in the High Court.

48. Regarding the case related to Supreme Steel Industries, 32150249572, (2009-10), CTO, Special Circle, Mattancherry, the Commissioner, Taxes Department informed that the case as non-sustainable as the turnover referred in the case was High Sea Sales and therefore exempted from tax. To a query of the Committee, the Additional Commissioner, GST department explained that if a trader sold the imported goods to another trader before taking them to stock, that trader was exempted from tax, as the resultant trade happened to be a sale in transit. In this particular case the dealer had omitted to show it in the return at first and on realising the omission, he had revised the return for that month. But the revised return was in the initiated stage. He further added that if it was not revised and updated within a certain time when the software was opened from the headquarters, it would be reflected in the KVATIS module due to technical reason and the officer should have verified it. The Committee decided to drop the said audit reference.

49. To the Committee's query whether the amount demanded in respect of the case related to C J Interio Mart, C.V. Jose and Sons, 32080290772, (2009-10),

CTO, Special Circle, Thrissur had been recovered, the Commissioner, Taxes Department replied that the entire amount had been realised. The Committee approved the reply furnished by the department.

50. Regarding the case related to Indroyal Furniture Company Private Limited, 32010616225, (2010-11), CTO, Special Circle, Thiruvananthapuram, Commissioner, Taxes Department informed that a demand of ₹3.67 lakh had been recovered, an officer from the Office of the Accountant General brought in to the notice of the Committee that for the assessment made in 2013 the payment was made in 2019. The Commissioner, Taxes Department informed that there was a shortfall of ₹2 lakh and that they would check whether interest was included in the total amount paid.

51. The Commissioner, Taxes Department informed that the entire outstanding amount had been paid under the Amnesty Scheme in respect of the case related to Adtech Systems Limited, 32010103844 (2011-12), CTO, Special Circle, Thiruvananthapuram. An Officer from the office of the Accountant General added to the discussion that while there was a tax demand of ₹12.35 lakh only ₹3.37 lakh had been paid in Amnesty and it needed to be checked whether reduction had been given in amnesty also. The Additional Commissioner, Goods and Services Tax Department informed that earlier there was 60 per cent relief under the amnesty scheme and they had already paid ₹14 lakh to remove the stay order from the Government.

52. To a query of the Committee in respect of the case related to Deepu Agencies, 32040983182 (2010-11), CTO, Kayamkulam, the Commissioner, Taxes Department informed that the amount had been paid in full under the Amnesty Scheme. The Committee also approved the reply furnished in respect of Deepu agencies, 32040983182, (2011-12).

53. To a query of the Committee about the current status of revenue recovery proceedings in respect of the case related to Koppara Enterprises Printing and Copy Solutions India Private Limited, 32021674839, (2009-10), CTO, Special Circle, Kollam, the Commissioner, Taxes Department informed that the RR measures had not yet been completed. Since 2019-20 was the COVID period, the revenue recovery rate of that time was quite low, but now

some progress was made. All the district collectors had been directed to focus on major cases and the Annual Collectors Conference had an agenda in that regard. The Officers of the department were participating in the monthly review meeting and taking those matters. The Committee directed that a report be made available on the current status of revenue recovery. The Commissioner, Taxes Department assured that it would be made available.

54. Regarding the case related to Bhima Traders, 32111266904 (2010-11), CTO, Vadakara, the Commissioner, Taxes Department informed that the case was partially sustainable and the revenue recovery process in respect of it was underway. The Additional Commissioner, Goods and Service Tax Department informed that a shortfall of ₹25 lakh had occurred and the case was not fully sustainable. A discount of ₹26 lakh has been received and the turnover could be exempted only if relevant proof was submitted. The assessment was completed except for the above issue. The Committee directed that a report be made available on the current status of revenue recovery proceedings. The Commissioner, Taxes Department answered in the affirmative.

55. In connection with another case related to Bhima Traders, 32111266904(2011-12), CTO, Vadakara, the Commissioner, Taxes Department informed that the revenue recovery proceedings in respect of the said case was in progress. The Committee directed that the report be made available on the current status of revenue recovery proceedings. The Commissioner, Taxes Department informed that it would be made available.

56. Regarding the case related to Roshini Traders, 32111236192 (2009-10), CTO, Vadakara, the Commissioner, Taxes Department informed that the amount demanded had been realized in full and the case was partially sustainable as the demand had been reduced on the basis of some incentive granted by them. To a query of the Committee whether the Taxes Department would declare the incentive every financial year, the Commissioner, Taxes Department replied that the department would not declare the incentive every year and if the company had given incentive to the dealer, it was said to be non-taxable and if discount was given, that was deducted after checking the records.

57. While considering the case related to The Mobilestore Limited, 32071623592, (2010-11), CTO, II Circle, Ernakulam, the Commissioner, Taxes Department informed that the revenue recovery proceedings were in progress.

The Committee directed that a report be made available on the current status of revenue recovery proceedings to the Committee at the earliest. The Commissioner, Taxes Department assured to do so.

58. While considering the above case the Commissioner, Taxes Department informed that the revenue recovery proceedings in respect of the case related to Neha Latha, 32071753001 (2011-12), CTO, Special Circle II, Ernakulam were in progress. The Committee directed that a report be made available on the current status of revenue recovery proceedings to the Committee at the earliest. The Commissioner, Taxes Department answered in the affirmative.

59. The Committee examined and approved the reply submitted by the government on cases related to Soubhagya Tile House, 32120239465(2009-10), PPM Chicken Agency, Puthenpurayil, 32120260222 (2009-10), Arafa Store, Cherattiyadan, 32120441414 (2009-10), Spice India, Thayath, 32120282575 (2010-2011), Klassic Traders, 32120666212, (2010-2011), Memi K, 32120690635, (2010-2011), New Pradeep Enterprises, Leela R, 32122299892, (2010-2011), Shankara Infrastructure Materials Limited, 32070298792, (2009-10), WIPRO GE Healthcare Private Limited, 32070319705, (2009-10), CTO, Special Circle II, Ernakulam, ULTRATECH Cement Limited, 32070363884, (2009-10), CTO, Special Circle II, Ernakulam, Nitta Gelatin India Limited, 32070425422, (2009-10), CTO, Special Circle III, Ernakulam, Nippon Motor Corporation Private Ltd., 32070463402, (2009-10), CTO, Special Circle III, Ernakulam, The Travancore Cochin Chemicals Limited, 32070482954, (2009-10), CTO, Special Circle III, Ernakulam, Mark Associates, Renji, 32071075424, (2009-10), CTO, Special Circle III, Ernakulam, Gulf Oil Lubricants India, 32070444974, (2010-11), CTO, Special Circle III, Ernakulam, Somany Ceramics Limited, 32070445604, (2010-11), CTO, Special Circle III, Ernakulam, RF Motors Private Limited, 32071272895, (2011-12), CTO, Special Circle III, Ernakulam, Hindustan Newsprint Ltd, 32050274962, (2010-11), CTO, Special Circle, Kottayam, Kunjikomu K.K, 32081008634, (2010-11), CTO, Kodungalloor, Mandumpal Enterprises, 32081211022, (2011-12), CTO, Kunnankulam, JCT Motors, 32010619015, (2009-10), CTO, Special Circle, Thiruvananthapuram, Indroyal Crafts Private Limited, 32010888442, (2009-10), CTO, Special Circle, Thiruvananthapuram, Jaya Agencies, 32010152725, (2010-11), CTO, Attingal, South Indian Federation of Fishermen Societies, 32010164864 (2010-11), CTO, Special Circle, Thiruvananthapuram, The

Travancore Mats and Matting Co., 32040250132, (2009-10), CTO, Cherthala, S D Pharmacy, 32040296245, (2010-11), and (2011-12), CTO, I Circle, Alappuzha, The Highland Produce Company Limited, 32040253822, (2011-12), CTO, Special Circle, Alappuzha, D.C.Mills (Private) Limited, 32041309735, (2011-12), AIT & CTO, Alappuzha, Rajan Cashew Company, 32020201394, (2009-10), CTO, Special Circle, Kollam, Kadavil Chemicals and Cements, 32021469775, (2009-10), CTO, Anchal, Anu Cashews, 32020282282, (2010-11), CTO, Special Circle, Kollam, Veronica Marine Exports Private Limited, 32020824532, (2010-11), CTO, III Circle, Kollam, Ace Automobiles Private Limited, 32110218674, (2009-10), CTO, Special Circle I, Kozhikode, Parisons Foods Private Limited, 32110222904, (2009-10), CTO, Special Circle I, Kozhikode, Plast O Plast, 32110267645, (2009-10), CTO, Special Circle I, Kozhikode, Gunnebo India Private Limited, 32110276375, (2009-10), CTO, Special Circle I, Kozhikode, APCO Automobiles Private Limited, 32110845401 (2009-10), CTO, Special Circle I, Kozhikode, Kalliyath Sanitary Centre, 32110869104, (2009-10), CTO, Special Circle I, Kozhikode, Hindalco Industries Limited, 32110295501, (2010-11), CTO, Special Circle I, Kozhikode, Bhima Traders, 32111266904, (2009-10), CTO, Vadakara, KTC Automobiles P. Limited, 32110361842, (2009-10), CTO, Special Circle II, Kozhikode, Radiant Market Beams Pvt. Ltd, 32110364305, (2009-10), CTO, III Circle, Kozhikode, Wall N Floor, 32110777462, (2009-10), CTO, Special Circle II, Kozhikode, Crescent Woods, 32111077184, (2009-10), CTO, Special Circle II, Kozhikode, Mukkom Tyres, 32110759282, (2010-11), CTO, II Circle, Kozhikode, Manasi Initiatives, 32110921855, (2010-11), CTO, IV Circle, Kozhikode, Sarasons Traders, 32110954345, (2010-11), CTO, IV Circle, Kozhikode, Future Retail Limited, 32090217952, (2009-10), CTO, Special Circle, Palakkad, Lord Krishna Associates, 32010612952, (2011-12), CTO, I Circle, Thiruvananthapuram, Rams Electricals, 32010734542, (2010-11), CTO, II Circle, Thiruvananthapuram, S S Marketing, 32071771664, (2009-10), CTO, III Circle, Ernakulam, Kay Kay Exports, 32071775624 (2010-11), CTO, III Circle, Ernakulam, Western IT Distributors, Sheeja, 32071885402, (2009-10) & (2010-11), CTO, IV Circle, Ernakulam and Malhotra Marketing Private Ltd, 32071893704, (2009-10), CTO, IV Circle, Ernakulam.

Conclusions/ Recommendations

60. The Committee directs the Department to submit a detailed report regarding the present status of the case filed in respect of Duro Flex Pvt. Ltd., 3204231985, (2011-12), CTO, Special Circle, Alappuzha and PAN Marketing, 32050274455, (2009-10), CTO, Special Circle, Kottayam within two months.

61. Regarding the case related to Evergrowing Iron & Finvest Ltd., 32070247424, (2011-12), CTO, Special Circle 1, Ernakulam, the Committee directs the Department to furnish the current status of stay order dated 06.03.2014 within two months.

62. The Committee observes that there is a difference of ₹1.44 crore in the total amount of particulars of purchase. Hence, the Committee urges the department to submit a detailed report in respect of EICL Limited, 32010125905 (2011-12), CTO, III Circle, Thiruvananthapuram after examining the matter in detail within two months.

63. The Committee evaluates that if a time limit is not fixed for the completion of revenue recovery procedures, they will endlessly be prolonged, become irrelevant in course of time and cause huge loss to the State exchequer. Therefore, the Committee urges that all revenue recoveries, free from court interventions should be completed in a time bound manner and be intimated to the concerned administrative department within a specified time frame.

64. The Committee observes that the revenue recovery measures has not yet been completed in cases in respect of Asian Paints limited, 32070289814, (2010-11), Falcon Tyres Ltd., 32070344725, (2010-11), CTO, Special Circle II, Ernakulam, Koppara Enterprises Printing and Copy Solutions India Private Limited, 32021674839, (2009-10), CTO special Circle, Kollam, Bhima Traders, 32111266904, (2010-11), (2011-12), CTO, Vadakara, The Mobile store Limited, 32071623592, (2010-11), CTO, II Circle, Eranakulam, Neha Leather, 32071753001, (2011-12), CTO, Special Circle, Ernakulam. Therefore, the Committee directs to furnish a report on the current status of revenue recovery proceedings as well as the details regarding the measures taken to expedite the said process.

2.5 Short levy of tax due to application of incorrect rate of tax.

Rate of tax applied on the taxable turnover was less than the rate applicable as per the statute

2.5.1 Margarine is taxable at 12.5 per cent under SL No. 64(8) of the list of goods taxable at 12.5 per cent notified under KVAT Act, 2003. Department of Commercial Taxes, clarified⁴ (October 2012) that the commodity margarine would be taxable at 12.5 per cent. It was judicially⁵ held by Hon'ble High Court of Kerala that margarine in all forms are taxable at 12.5 per cent.

- **(CTO, Special Circle, Thiruvananthapuram)**

M/s Stanes Trading Company, Thiruvananthapuram was a dealer in ingredients for bakery products which included various types of margarine. As per purchase invoices filed, the assessee had purchased bakery vanaspathy which is nothing but margarine for ₹46.73 lakh, ₹86.71 lakh and ₹1.26 crore during 2008-09, 2009-10 and 2010-11 respectively. The assessee sold bakery vanaspathy during the respective years along with other bakery products. Sale value of bakery vanaspathy adding conceded Gross Profit (GP) to purchase value would be ₹48.76 lakh, ₹90.18 lakh and ₹1.32 crore respectively during these years. Audit noticed that the assessee included the sales turnover of bakery vanaspathy which was taxable at 12.5 per cent in the turnover taxable at four per cent. This resulted in short payment of tax, cess and interest amounting to ₹30.33 lakh. The assessing authority did not select the case for revised assessment to rectify the defect.

The case was pointed out to the Department in March 2013 and reported to Government in January 2014. Government stated (April 2014) that orders creating additional demand of ₹6.09 lakh, ₹10.84 lakh and ₹14.53 lakh for 2008-09, 2009-10 and 2010-11 respectively were issued and the assessee remitted ₹2.49 lakh for 2008-09. Further report has not been received (October 2014).

- **(CTO, special circle I, Ernakulam)**

M/s Giby Traders, Ernakulam was a dealer in bakery products, margarine, edible oil etc. During 2011-12 the assessee filed annual return conceding turnover of

⁴ Order No. C3/21062 dated 09/10/2012

⁵ 37 VST 594 (HC of Kerala) SSD Oil Company Ltd. Vs State of Kerala

₹3.85 crore taxable at four per cent. Audit scrutinised the purchase invoice of the assessee and found that during the year they purchased margarine worth ₹2.15 crore. However, corresponding sales turnover of ₹2.24 crore (adding GP of 4.06 per cent on the purchase turnover) was not assessed to tax at correct rate of 12.5 per cent. The assessing authority also did not re-assess the tax. Application of incorrect rate of tax resulted in short remittance of tax, cess and interest of ₹22.26 lakh.

When the case was pointed out in September 2013, the Department stated (March 2014) that assessment had been completed (October 2013) creating additional demand of ₹22.45 lakh. The case was reported to Government in September 2014. Their reply has not been received (October 2014).

• **(CTO, Special Circle (produce), Mattancherry)**

M/s Ruchi Soya Industries Limited, Cochin was an assessee engaged in trading of edible oils, bakery products etc. During the period from 2006-07 to 2011-12 (six years), the assessee self assessed to tax the sales turnover of edible oils other than coconut oil amounting to ₹17.26 crore at four per cent. Audit found that this turnover included sales turnover of bakery vanaspathy amounting to ₹17.26 crore which is nothing but margarine. Though margarine was taxable at ₹12.5 per cent, its sales turnover was assessed at four per cent only. The assessing authority also did not re-assess the tax. This resulted in short payment of tax, cess and interest of ₹2.12 crore.

The case was pointed out to the Department in May 2013. The assessing authority stated that the audit objection was on the premise that the bakery vanaspathy is margarine and since there is no proof for the findings that the bakery vanaspathy is margarine, the audit objection was baseless. However, on subsequent verification, it was found that the assessment for 2006-07 and 2007-08 (two years) had been completed (March 2014) creating additional demand of ₹1.03 crore accepting the contention of Audit. No action has been taken by the Department in case of the remaining four years (2008-09 to 2011-12).

The case was reported to Government in August 2014. Their reply has not been received (October 2014).

• **(CTO, Special Circle I, Ernakulam)**

M/s SSD Oil Mills Company Limited, Cochin was a dealer in edible oils, margarine, bakery products etc. Audit found that the assessee self assessed to tax their sales turnover of margarine for ₹3.03 crore and ₹3.20 crore for the years 2010-11 and 2011-12 at four *per cent* instead of at the correct rate of 12.5 *per cent*. The application of incorrect rate of tax resulted in short payment of tax, cess and interest of ₹65.83 lakh.

When the case was pointed out in October 2013, the Department stated in May 2014 that the assessments for the years 2010-11 and 2011-12 were completed (March 2014) and additional demand of ₹71.21 lakh was created. The case was reported to Government in September 2014. Their reply has not been received (October 2014).

• **(CTO, Special Circle I, Ernakulam)**

M/s Manu Enterprises, Cochin was a dealer in edible oil, margarine etc. Though the assessee was dealing mainly with margarine, the sales turnover of margarine for ₹9.99 crore, ₹11.71 crore, ₹17.92 crore and ₹25.46 crore for the years 2008-09, 2009-10, 2010-11 and 2011-12 respectively were assessed to tax at four *per cent* treating it as edible oil instead of 12.5 *per cent* applicable to margarine. The application of incorrect rate of tax resulted in short remittance of tax, cess and interest of ₹7.27 crore.

When this was pointed out in October 2013, the Department stated in March 2014 that the assessments for the years 2008-09 and 2009-10 were completed and additional demand of ₹1.29 crore was created. The case was reported to Government in September 2014. Their reply has not been received (October 2014).

[Audit paragraphs 2.5.1 contained in the Report of the comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March 2014]

[Notes submitted by the Government on the above audit paragraph are included as Appendix II]

Excerpts from the discussion of Committee with Officials concerned

65. The Commissioner, Taxes Department informed that the case in respect of M/s Stanes Trading Company, Thiruvananthapuram was sustainable and the revenue recovery proceedings were still pending. The Committee directed that a report be made available on the current status of revenue recovery proceedings to the Committee at the earliest. The Commissioner, Taxes Department assured that it would be made available.

66. The Commissioner, Taxes Department informed that the revenue recovery proceedings initiated in respect of M/s Giby Traders, Ernakulam were pending. The Committee directed that a report be made available on the current status of revenue recovery proceedings to the Committee at the earliest and the Commissioner, Taxes Department agreed to it.

67. The Committee examined and approved the reply submitted by the government in respect of M/s Ruchi Soya Industries Limited, Cochin.

68. The Commissioner, Taxes Department informed that the amount to be collected in respect of the case related to M/s SSD Oil Mills Company Limited, Cochin had been included in the Amnesty Scheme and the dealer had paid the amount.

69. The Commissioner, Taxes Department informed that the entire amount had been received from M/s Manu Enterprises, Cochin as part of the completion of revenue recovery proceedings.

Conclusion/ Recommendation

70. The Committee observes that the revenue recovery measures have not yet been completed in cases related to M/s Stanes Trading Co. and M/s Giby Traders. Therefore, the committee directs that a report on the current status of revenue recovery proceedings on the said cases be furnished to the Committee within two months.

2.5.2 Bakery products including biscuits sold under brand name, registered under the Trade Mark Act, 1999 are liable to be taxed at 12.5 per cent under SI.No.11 of list of goods taxable at 12.5 per cent notified under KVAT Act, 2003.

- **(CTO, Special Circle II, Ernakulam)**

M/s Elite Foods Private Limited, Kochi was a manufacturer of bakery products selling goods under a brand name 'Elite' registered under Trade Mark Act, 1999. During 2011-12, they self assessed to tax their sales turnover of bakery products within the state for ₹26.92 crore and interstate sales without C form for ₹12.31 lakh at four *per cent* instead of the correct rate of 12.5 *per cent* applicable to food products sold under brand name registered under the Trade Mark Act, 1999. This resulted in short remittance of tax, cess and interest of ₹2.76 crore.

This case was pointed out to the Department in December 2013 and reported to Government in June 2014. Their replies have not been received (October 2014).

- **(CTO, Special Circle I, Kozhikode)**

M/s Ojin Foods (P) Ltd., Kozhikode was a dealer in bakery products, sugar etc. As per the annual return filed by the assessee for the year 2010-11, the sales turnover of bakery products amounting to ₹7.93 crore was self assessed to tax at four *per cent* as if they were sold under un-registered brand name. Audit verified the details of brand name with the Controller General of Patents, Designs and Trademarks, Mumbai available in the internet and found that the assessee was a holder of registered brand name 'Ojin'. Hence, the rate of tax applicable was 12.5 *per cent*. Application of incorrect rate of tax resulted in short payment of tax, cess and interest of ₹78.94 lakh.

When this case was pointed out in September 2012, the assessing authority stated (September 2012) that notice under Section 25(1) of the KVAT Act, 2003 had been issued proposing to assess the turnover of bakery products at 12.5 *per cent*. Further, the case was reported to Government in June 2013. Their reply has not been received (October 2014).

- **(CTO, Special Circle I, Ernakulam)**

M/s Best Foods, Kochi was a manufacturer and dealer of bakery products. Audit found from the internet, that the assessee had been permitted to use the registered trade mark 'Best, Two Chef (Label)' by the Controller General of Patents, Designs and Trademarks, Mumbai. Thus, the products were sold under the registered trade mark and hence were taxable at 12.5 *per cent*. However, during 2011-12, the assessee self assessed to tax the sales turnover of bakery products

for ₹5.53 crore at four *per cent* instead of 12.5 *per cent* applicable to branded food products. Application of incorrect rate of tax resulted in short payment of tax, cess and interest of ₹54.62 lakh.

The case was pointed out in August 2013; the Department stated in January 2014 that the assessment had been completed in November 2013 creating additional demand of ₹56.99 lakh. Further, this case was reported to Government in May 2014. Their reply has not been received (October 2014).

[Audit paragraph 2.5.2 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March 2014]

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

Excerpts from the discussion of Committee with officials concerned

71. The Commissioner, Taxes Department informed that the case in respect of M/s Elite Foods Private Limited, Kochi was not sustainable. He added that the audit observation in this case was related to the short levy of tax due to the application of incorrect tax rate on bakery products sold under the label "Elite". Higher rate of tax was applicable when a company used a registered trade mark for their products. In this case, it was found that the company used label 'Elite' even though, it had no registered label or trademark of its own and the said trademark was the registered label of Yamuna Roller Flour Mills. The Hon'ble High Court had also clearly ruled that the higher taxation bracket could not be made applicable to those who just owned a label without a registered trade mark.

72. To a query of the Committee whether this was being done with the intention of misleading the consumers, the Commissioner, Taxes Department replied that it was so and many companies sold their products under the name 'Elite'. If those companies had illegally used the registered trade mark of Elite, the owner of the trademark could file a case against them. But regarding taxability, lower tax was charged if there was no registered trademark.

73. The Commissioner, Taxes Department informed that the case in respect of M/s Ojin Foods (P) Ltd., Kozhikode was sustainable and revenue recovery was progressing. The Committee directed that a report be made available on the current status of revenue recovery proceedings. The Commissioner, Taxes Department agreed to do so.

74. The Commissioner, Taxes Department informed that the amount to be paid in respect of M/s Best Foods, Kochi had been included in the Amnesty Scheme and the dealer had paid the amount.

Conclusion/ Recommendation

75. As the revenue recovery measures initiated in case related to Ojin Foods (P) Limited have not yet been completed, the Committee directs that a report on the current status of revenue recovery proceedings should be furnished to the Committee within a month.

2.5.3 (CTO, Special Circle, Perumbavoor)

Under entry 103 of list of goods taxable at 12.5 per cent notified under KVAT Act 2003, 'Muslipower X-tra' is a commodity taxable at 12.5 per cent. This has been clarified⁶ (November 2012) by the authority under Section 94 of the KVAT Act, 2003.

M/s Kunnath Pharmaceuticals, Muvattupuzha was a manufacturer of 'Musli power X-tra'. During 2009-10 to 2011-12, the assessee self assessed to tax the sales turnover of 'Muslipower X-tra' at four per cent, treating it as medicine. The Department clarified (November 2012) that 'Muslipower X-tra' is not classifiable under medicine but should be treated as an unclassified item taxable at 12.5 per cent. However, the assessing authority did not complete the assessment applying the correct rate. This resulted in short remittance of tax, cess and interest of ₹3.06 crore as detailed in Table - 2.2.

Table – 2.2

(₹ in crore)				
Sl. No.	Year	Local sales turnover/ interstate sales turnover without Form C	Short remittance of tax, cess and interest	Reply of department
1	2009-10	18.82	1.67	The case was brought to the notice of the Department in June 2011. The assessing authority stated in November 2011 that notice was issued to the assessee for production of accounts and the assessment would be revised after verification.

6 Order No. C3/23413/12/CT dated 28.11.2012

2.	2010-11	12.79	1.04	When the case was pointed out (July 2012), the assessing authority stated (January 2013) that notice had been issued to the assessee to produce accounts for the year 2010-11 and result would be submitted.
3.	2011-12	4.06	0.35	This was pointed out to the Department in July 2013 and reported to Government in April 2014. Government accepted the contention of Audit and stated (August 2014) that the assessment was finalised and demand notice for balance due ₹38.81 lakh including interest was served. (June 2014).
Total			3.06	
The cases pointed out in (1) and (2) above were reported to Government in September 2014. Their replies have not been received (October 2014).				

[Audit paragraphs 2.5.3 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March 2014]

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

Excerpts from the discussion of Committee with officials concerned

76. The replies in respect of cases mentioned in the above audit paragraph were examined and approved by the Committee.

Conclusion / Recommendation

77. No Comments.

2.5.4 (CTO, II Circle, Perumbavoor)

Steam boilers and thermic fluid heaters are taxable at 12.5 per cent under Entry 60(2) and 103 respectively of list of goods taxable at 12.5 per cent notified under KVAT Act, 2003. This rate of tax applicable on these commodities has been clarified by the Commissioner of Commercial Taxes in August 2009. Chimney is also taxable at 12.5 per cent under Entry No. 103 of the above notification as it is not included in any of the schedules to the Act.

M/s Thermal Tech Engineers, Perumbavoor was a manufacturer and dealer of thermic fluid heater, steam boiler, chimney etc. During 2009-10, 2010-11 and 2011-12, the assessee had sales turnover of ₹1.16 crore, ₹1.40 crore and ₹1.45 crore respectively for those commodities. Audit found that as per annual returns filed by the assessee for the years, the assessee self assessed to tax the above commodities at four *per cent* against the correct rate of 12.5 *per cent*. The assessing authority did not select the case for revised assessment to rectify the defect and make good the short levy. This resulted in short payment of tax, cess and interest of ₹42.35 lakh.

When this was pointed out in May 2013, the Department stated in September 2013 that notice under Section 25(1) was issued by the assessing officer for levy of tax at 12.5 *per cent*. This case was reported to Government in May 2014. Their reply has not been received (October 2014).

[Audit paragraphs 2.5.4 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

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

Excerpts from the discussion of Committee with officials concerned

78. To the Committee's query about the current status of the above case, the Commissioner, Taxes Department informed that the RRC had been issued and a writ petition was pending in the High Court.

Conclusion / Recommendation

79. The Committee directs the department to furnish the present status of the writ petition filed in respect of the case related to M/s. Thermal Tech Engineers, Perumbavoor.

2.5.5 (CTO, Special Circle I, Ernakulam)

Abrasive Sheet, asbestos sheet, ignition coil etc., are taxable at 12.5 per cent under entries 1, 10(2)(b) and 33(11) of list of goods taxable at 12.5 per cent notified under KVAT Act, 2003.

M/s Kummenchery Steels, Thiruvankulam was a dealer in iron, steel, metals, alloys etc. During 2011-12, the assessee did not concede in the annual return any interstate purchase of 12.5 percent taxable items and entire interstate purchase was shown as four percent taxable. Further, the assessee did not concede any sales turnover of 12.5 percent taxable items. Audit scrutinized data available on check post module of Kerala Value Added Tax Information System (KVATIS) and found that assessee had effected interstate purchase of 12.5 percent taxable items such as abrasive sheet, asbestos sheet, ignition coil etc for ₹1.72 crore. As there was no closing stock of 12.5 percent taxable items, it was evident that corresponding sales turnover was included in four per cent taxable sale. Self assessment at incorrect rate of tax on commodities worth ₹1.72 crore (without considering GP) resulted in short remittance of tax, cess and interest of ₹17.15 lakh.

The case was pointed out to the Department in September 2013 and reported to Government in June 2014. Their replies have not been received (October 2014).

2.5.6. (CTO, Special Circle, Malappuram)

As per list of goods taxable at 12.5 per cent notified under KVAT Act, 2003, cosmetics including hair oil, hair cream etc., are taxable at 12.5 per cent. As per proviso 13 to Section 6(1) of the Act, tax payable on ayurvedic cosmetic products manufactured under a drug license granted under the Drugs and Cosmetics Act, 1940 (Central Act 23 of 1940) containing added medicaments having subsidiary therapeutic or prophylactic uses shall be four per cent for the period from 1st April, 2005, to 12th November, 2009.

M/s Santhosh Pharmacy, Kadalundi Nagaram was a manufacturer and dealer in ayurvedic products. During 2011-12, they self assessed their sales turnover of ayurvedic cosmetic products coming under the list of 12.5 per cent taxable goods notified under KVAT Act, 2003 for ₹2.09 crore at four per cent on maximum retail price by classifying them as medicines. Misclassification resulted in short remittance of tax, cess and interest of ₹15.03 lakh.

Audit pointed out this to the Department in May 2013 and reported to Government in February 2014. Their replies have not been received (October 2014).

[Audit Paragraphs 2.5.5 and 2.5.6 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

[Notes submitted by the Government on the above audit paragraphs are included as Appendix II]

Excerpts from the discussion of Committee with officials concerned

80. The reply submitted by the government on the above audit paragraphs were examined and approved by the Committee.

Conclusion/ Recommendation

81. No Comments.

2.5.7. (CTO, Special Circle, Malappuram)

Under entry 45 of the list of goods taxable at 12.5 per cent notified under KVAT Act, 2003, furniture made from any material is taxable at 12.5 per cent till 31st March, 2012.

M/s Tiptop Furniture Industries, Kottakkal was a dealer in furniture and furnishing materials. During 2011-12, the assessee filed annual return disclosing total local sales turnover of ₹17.82 crore. This included turnover classified as sale of handicrafts for ₹1.21 crore which was self assessed to tax at four per cent. As per closing stock of inventory, Audit found that the commodity classified as handicrafts was nothing but carved wooden settee, dining table etc. Hence, these were classifiable as furniture taxable at 12.5 per cent. The assessing authority did not select the case for revised assessment to rectify the defect. The misclassification resulted in short remittance of tax, cess and interest of ₹11.59 lakh.

This case was pointed out to the Department in May 2013 and reported to Government in February 2014. Government stated (July 2014) that assessment had been completed creating additional demand of ₹12.62 lakh and the amount has been recommended for revenue recovery. Further report has not been received (October 2014).

[Audit Paragraph 2.5.7 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

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

Excerpts from the discussion of Committee with officials concerned.

82. To the Committee's query about the current status of the above case, the Commissioner, Taxes Department informed that an appeal was pending in the High Court.

Conclusion/ Recommendation

83. The Committee directs the department to furnish the present status of the appeal petition filed in respect of the case related to M/s. Tiptop Furniture Industries, Kottakkal.

2.5.8 (CTO, Special Circle II, Emakulam)

As per Section (2liiA) of KVAT Act, 2003 used motor vehicles means a motor vehicle purchased and registered under the Motor Vehicles Act, 1988 and used for a minimum of 15 months subsequent to registration. Under proviso 10 to Section 6(1) of KVAT Act, 2003, the rate of tax on the sale of used motor vehicles is 0.5 per cent.

M/s Indus Motors Company (P) Limited, Kochi was a dealer in motor vehicles and parts. As per the annual return for 2009-10 filed by the assessee, their conceded total and taxable sales turnover of used motor vehicles were ₹ 45.97 crore and ₹45.75 crore respectively. The taxable turnover was self assessed to tax at 0.5 per cent. Assessing authority confirmed from the website of the motor vehicles department that 21 of these motor vehicles, the sale value of which amounted to ₹56.17 lakh were not actually used for minimum period of 15 months and completed the assessment (September 2012) applying 12.5 per cent tax on the turnover of ₹56.17 lakh. The original assessment was revised (June 2013) on detection of suppression by data mining team of the Department. However, Audit found that subsequently based on application from the assessee for rectification of some errors in the assessments, another assessing officer assessed the entire sales turnover of ₹45.97 crore conceded by the assessee as used motor vehicles in their annual return at 0.5 per cent. Assessment of tax on vehicles used for less than 15 months at the rate applicable to used vehicle resulted in short levy of tax, cess and interest of ₹9.67 lakh.

When this was pointed out in audit (November 2013), the Department stated that the matter would be examined. The case was reported to Government in June 2014. Their reply has not been received (October 2014).

[Audit Paragraph 2.5.8 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March 2014]

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

Excerpts from the discussion of Committee with officials concerned.

84. To the Committee's query about the payment details, the Commissioner, Taxes Department informed that ₹29.95 lakh had been paid after adjusting payments already made.

Conclusion/ Recommendation

85. No Comments.

2.5.9. (CTO, (WC<), Kollam)

As per Section 6(1) of the KVAT Act, 2003 transfer of goods involved in the execution of works contract where transfer is not in the form of goods is liable to be taxed at 12.5 per cent. Tyre retreading contract is a works contract where transfer of goods does not take place in the form of goods as evident from the fact that it is included as item 4 in table below Rule 10 (2) (b) of KVAT Rules, 2005. The Rule specified the labour and other charges to be deducted as percentage of the value of the works contract in cases where the actual turnover is not ascertainable from the books of accounts or the dealer has not maintained any books of accounts.

M/s Quilon Tyres and Treads, Kollam was an assessee who had a contract receipt of ₹86.06 lakh during 2010-11 from retreading of tyres. The assessee split the contract as sale of materials (₹66.48 lakh) and labour charges (₹19.58 lakh) and assessed tax at four per cent on former portion treating it as sale of tread rubber and availed exemption on the later. Since tyre retreading contract is a works contract, transfer value of goods has to be assessed to tax at 12.5 per cent. Failure to levy tax at 12.5 per cent resulted in short levy of tax, cess and interest of ₹6.91 lakh.

This case was pointed out (February 2013) to the Department and reported to the Government in November 2013. Government stated (April 2014) that assessment has been completed (December 2013) creating total additional demand of ₹10.51 lakh and demand notice has been issued to the dealer. Further report has not been received (October 2014).

[Audit Paragraph 2.5.9 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March 2014]

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

Excerpts from the discussion of Committee with officials concerned.

86. The Commissioner, Taxes Department informed the Committee that the said case was sustainable and an appeal was pending in the High Court.

Conclusion/ Recommendation

87. The Committee directs the department to submit the present status of appeal petition filed before the Hon'ble High Court of Kerala.

2.5.10. (CTO, (WC<), Pathanamthitta)

According to proviso to Section 8(a)(ii) of KVAT Act 2003, the compounded tax payable by any works contractor registered under the provisions of CST Act, 1956 or an importer, in respect of contract awarded by Government of Kerala shall be four per cent of the whole contract amount. Section 7(5) of the CST Act, 1956 requires the dealer to apply for cancellation of registration not later than six months before the end of a year and cancellation of registration shall take effect from the end of the year.

M/s Mathew Abraham, Ranni was a works contractor registered under CST Act, 1956. During 2010-11, the assessee self assessed his contract receipts from Government of Kerala at compounded rate of three per cent and the assessing authority revised the assessment in May 2012 creating additional demand of ₹4.73 lakh at differential rate of one per cent, cess and interest. But CTO (WC<), Pathanamthitta, cancelled the same on the ground that the dealer had no CST Registration. Audit found that the assessee requested the assessing authority in January 2010 for the revalidation of C Forms upto 30 June 2010. From this, it is evident that the assessee had not applied for cancellation of

registration six months prior to April 2010 without which cancellation of registration would not be effective during 2010-11. Hence, the assessee was liable to pay compounded tax at four per cent. Application of incorrect rate resulted in short levy of tax, cess and interest of ₹5.03 lakh.

This case was pointed out in December 2012 to the Department and was reported to Government in December 2013. Government stated (July 2014) that assessment for the year 2010-11 has been completed creating additional demand of ₹ 5.70 lakh. Further report has not been received (October 2014).

[Audit Paragraph 2.5.10 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March 2014]

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

Excerpts from the discussion of Committee with officials concerned.

88. The Committee examined and approved the reply submitted by the Government on the above audit paragraph.

Conclusion/ Recommendation

89. No Comments.

2.6 Short levy of tax due to incorrect claim of input tax/ special rebate allowed

Excess input tax credit/special rebate was availed resulting in short levy of tax.

2.6.1. (8 CTOs⁷)

As per Section 30(3) (a) of KVAT Act, 2003, no registered dealer shall collect any sum purporting to be by way of tax on the sale of any goods at a rate exceeding the rate at which he is liable to pay tax. Thus, collection of tax in excess of the amount of tax actually due is illegal. The first proviso below Section 11(3) of KVAT Act, 2003 stipulates that no input tax credit shall be allowed to any tax illegally collected. As per Section 67(1)(e) of KVAT Act,

⁷ CTOs 1 Circle, Palakkad, Special Circles Alappuzha, Kannur, Kollam, Kottayam, Thrissur, Special Circle III, Ernakulam and Special Circle II, Kozhikode.

2003, bogus claim of input tax credit will attract penalty upto twice the amount of tax or other amount evaded or sought to be evaded.

As per annual returns filed by 13 dealers in eight CTOs, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of ₹2.40 crore. Penalty upto ₹3.01 crore was also leviable in these cases as shown in Appendix III(5).

When the case was pointed out to the Department in September 2014, it was stated that a detailed report would be furnished soon after the verification from the offices concerned. The case was reported to Government in September 2014. Their reply has not been received (October 2014).

2.6.2. Under proviso 3 to Section 11(3) read with proviso 3 to Section 12(1) of KVAT Act, 2003 where any goods purchased in the State are subsequently sent outside the State or used in the manufacture of goods and the same are sent outside the State by sale in the course of inter-state trade, which is exempted from tax, input tax credit and special rebate shall be limited to the amount of input tax/ purchase tax paid in excess of four per cent on the purchase turn-over of such goods sent outside the State. As per Rule 12A of KVAT Rules 2005, where taxable goods are used during a return period partly in relation to taxable transaction and partly in relation to exempted or non-taxable transaction, the input tax paid or special rebate to which the dealer has become entitled to during such return period shall be apportioned between the taxable and exempted transactions on the basis of the ratio of taxable and exempted turnover and the portion relating to exempted sale or transaction shall be disallowed.

• **(CTO, Special Circle I, Kozhikode)**

M/s Parisons Foods (P) Limited, Kozhikode was a dealer in edible oil, coconut oil and industrial inputs etc. During 2010-11, interstate stock transfer constituted 17.78 per cent of its disposal of goods excluding trading of coconut oil and high sea sale. Total local purchase excluding coconut oil being ₹55.92 crore, local purchase proportionate to stock transfer for which input tax credit to be disallowed was ₹9.94 crore. However, the assessee availed entire tax paid on local purchase as input tax credit. The assessing authority did not select the case

for revised assessment to rectify the defect. This resulted in short payment of tax, cess and interest of ₹46.99 lakh.

The case was pointed out to the Department in September 2012 and reported to Government in June 2013. Their replies have not been received (October 2014).

• **(CTO, Special Circle, Perumbavoor)**

M/s E.V. Mathai & Sons, Kothamangalam was a dealer in rubber sheets and rubber products. During 2011-12, the sales turnover conceded by the assessee was ₹124.32 crore. Out of this, taxable sale was for ₹46.68 crore (37.55 per cent) and the balance of ₹77.64 crore (62.45 per cent) was exempted as interstate sale. The assessee availed excess input tax credit and paid less purchase tax as detailed in Table 2.3 and Table-2.4.

Table – 2.3

Local purchase from registered dealers	Tax at 4 percent on local purchase	Input tax credit		
		Admissible (37.55 per cent of ₹4.59 crore)	availed	availed in excess (A)
₹	₹	₹	₹	₹
114.83 crore	4.59 crore	172.47 lakh	177.48 lakh	5.31 lakh

Table – 2.4

Local purchase from unregistered dealers	Local purchase proportionate to interstate sales (62.45 per cent)	Purchase Tax		
		Due 4 per cent	Paid	Short payment (B)
₹	₹	₹	₹	₹
659.50 lakh	411.86 lakh	16.47 lakh	11.40 lakh	5.07 lakh
Total short payment of tax (A) + (B)				10.38 lakh

This resulted in short payment of tax, cess and interest of ₹11.95 lakh.

The case was pointed out to the Department in July 2013 and reported to Government in May 2014. Their replies have not been received (October 2014).

• **(CTO, II Circle, Kannur)**

M/s Bushra Plywoods & Wood Industries and Jas Plywood, Kannur were Small Scale Industrial (SSI) units eligible for exemption from payment of CST. The

assesseees availed benefit of CST exemption during the years 2005-06 and 2006-07. Since their interstate sales were exempted from payment of tax, the input tax at four *percent* on purchase proportionate to exempted interstate sales should have been disallowed. Audit found that the assessing authority allowed the input tax paid by the assessee in full and excess input tax credit amounting to ₹6.91 lakh was refunded to the assessee. This resulted in short levy of tax and interest of ₹11.60 lakh.

This was pointed out to the Department between December 2012 and January 2013 and reported to Government in June 2013. Government replied (January 2014) that the assessment in respect of the above dealers for the years 2005-06 and 2006-07 had been completed by the assessing officer demanding tax and interest of ₹ 4.70 lakh and ₹ 7.14 lakh respectively after the defect being pointed out by Audit. Appeal is pending before DC (Appeal), Kozhikode. Further reply has not been received (October 2014).

• **(CTO, Special Circle, Thiruvananthapuram)**

M/s Kerala State Electronics Corporation, Manvila was a dealer in electronic goods. During 2010-11, they had local purchase for ₹4.38 crore and they availed input tax credit of ₹36.23 lakh. Out of the total disposal of goods for ₹8.91 crore, ₹2.43 crore constituting 27 *per cent* of the total goods disposed during the year was stock transferred outside the State. As such, four *per cent* input tax credit proportionate to interstate stock transferred out had to be reversed. Availing of excess input tax claim resulted in short remittance of tax, cess and interest of ₹5.69 lakh as shown in Table – 2.5.

Table – 2.5

	(₹ in lakh)
Total disposal of goods	891.40
Interstate stock transfer out	243.25 (27 per cent)
Total local purchase turnover for which input tax credit was claimed	438.38
Local purchase value proportionate to stock transfer (27 per cent of ₹438.38 lakh)	118.36
Input tax claim to be disallowed (four per cent)	4.73
Total short levy including cess and interest	5.69

The case was pointed out to the Department in December 2012 and reported to Government in January 2014. Government stated (April 2014) that the assessee had been directed (February 2014) to remit the excess input tax credit availed. Further report has not been received (October 2014).

[Audit Paragraphs 2.6.1 & 2.6.2 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014]

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

Excerpts from the discussion of Committee with officials concerned.

90. The Committee examined and approved the reply submitted by the government in respect of the 13 cases mentioned in Appendix III(5). The Committee opined that as the entire system had been shifted to GST, the above issues would not come before the Committee again.

91. The Commissioner, Taxes Department informed that in some cases, if the assessment was required to be done on appeal, it would have to be reconsidered and at present all matters were covered under GST. The Committee enquired whether there was any provision in the new GST regime for pending cases, in the case all businesses were shifted to GST.

92. The Commissioner, Taxes Department informed that it could be done in the same way as the arrears were collected. The Committee enquired whether adequate attention was being paid to the pending cases related to the period immediately preceding the new GST regime.

93. The Commissioner, Taxes Department informed that in all such cases, at least an audit or review or scrutiny had been completed and all the major demands were either in RR stage or in High Court appellate stage. It has not been possible to decide on each issue quickly and if a special bench of the High Court was available, the cases could be decided quickly. The Committee opined that the slow processes of tax collection would lead to huge difference in value of money over a relatively longer period.

94. When the Committee directed to give reply on the audit observation, the Additional Commissioner, GST Department submitted that apart from imported edible oil, M/s Parisons Foods (P) Ltd. also had local purchase.

However, input tax credit was allowed only for local purchases and could not be claimed for imports and interstate stock transfers. It was the imported edible oil that was transferred interstate by the firm, for which input tax credit was not allowed. An order from Hon'ble High Court was also there in that regard. The Additional Commissioner added that the firm had maintained a separate account for imported oil and locally purchased oil. The Committee suggested to find out and report similar cases.

95. Regarding the case M/s E.V. Mathai & Sons, Kothamangalam, the Additional Commissioner, GST Department informed that a detailed report would be submitted.

96. While considering M/s Bushra Plywoods & Wood Industries, Kannur the Additional Commissioner, GST Department informed that Small and Medium Scale Industries were given some exemptions earlier in payment of Sales Tax. Even after the VAT was effected, some units continued to avail the benefits of tax deductions as they were specifically exempted by the Government. He added that the unit mentioned was of similar nature and a case in that regard was pending before the Tribunal. When the Committee asked about the order of Hon'ble Supreme Court referred in the RMT, the Commissioner, Taxes Department informed that SLP was filed and the case was pending. The Additional Commissioner, GST Department informed that the case might not be accepted in the court and the Committee agreed to drop the audit para.

97. While considering M/s Jas Plywoods, the Additional Commissioner, GST Department submitted that the Tribunal accepted the plea of the firm and passed an order in favour of them. Though the department had decided to approach the Hon'ble High Court, the legal opinion of the Government Pleader was that there was no scope for filing TRC. The Committee accepted the reply and agreed to drop the audit para.

98: When the Committee directed to give the details regarding M/S Kerala State Electronics Corporation, the Additional Commissioner, GST Department submitted that it was sustainable and, assessment was completed and the RRC was issued.

Conclusions/ Recommendations

99. The Committee observes that excess input tax credit availed by certain dealers resulted in short levy of tax, credit and interest. Therefore, the Committee directs the Department to find out similar cases, if any and report them to the Committee as soon as possible.

100. The Committee also directs the Department to furnish a detailed report on the collection of demand, if any, due from M/s Parisons Foods (P) Ltd. to the Committee at the earliest.

101. The Committee directs the department to submit a detailed report in respect of the objection pointed out by the Accountant General in connection with M/s E.V. Mathai & Sons, Kothamangalam at the earliest.

102. Regarding the case related to M/s Kerala State Electronics Corporation, Manvila, the Committee directs the department to submit a report on the status of realisation of revenue at the earliest.

2.6.3. (CTO, Special Circle II, Emakulam)

As per Rule 10(b) of KVAT Rules, 2005, while determining the taxable turnover of a dealer, all amounts allowed to purchasers in respect of goods returned by them within a period of ninety days from the date of delivery of the goods can be deducted from the total turnover of the dealer. As per Section 41 of KVAT Act, 2003, the dealer effecting the sale shall issue to the purchaser a credit note in such cases.

M/s Apollo Tyres Limited, Kochi was a dealer in tyres, tubes, flaps, tread rubber etc. Audit found that as per the annual return filed by the assessee for 2011-12, the assessee claimed credit of ₹12.00 lakh as tax element of credit note. The above tax credit was not admissible as there was no corresponding sales return as per Form 13A. Incorrect claim of tax credit resulted in short remittance of tax, cess and interest of ₹14.55 lakh.

When this was pointed out (January 2014), the assessing authority stated that the matter would be examined. Further, this case was reported to Government in June 2014. Their reply has not been received (October 2014).

[Audit paragraph 2.6.3 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)].

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

Excerpts from the discussion of Committee with officials concerned.

103. While considering M/s Appollo Tyres Limited, Kochi, the Additional Commissioner, GST Department submitted that it had been reported as non-sustainable. The dealer availed tax credit of ₹12 lakh in which ₹10 lakh was the credit note on the basis of garnished order from the Sub Court and the tax credit amounting to the balance amount had been assessed.

Conclusion/ Recommendation

104. No Comments.

2.6.4. As per Section 25 of KVAT Act, 2003 where any input tax credit or special rebate has been wrongly availed of, the assessing authority may, at any time within five years from the last date of the year to which the return relates, proceed to determine, to the best of its judgment, input tax credit or special rebate that has been wrongly availed of and disallow the input tax credit or special rebate wrongly availed of. As per Section 20A of KVAT Act, 2003, every dealer shall file his return as well as purchase and sales list through electronic filing in addition to hard copy to be filed along with the return.

- **(CTO, Special Circle I, Ernakulam)**

M/s Bams Condiments Impex Private Limited, Kochi was a dealer in food products, edible oil, flours etc. Audit scrutiny revealed that the assessee availed input tax credit of ₹8.07 lakh on purchases aggregating ₹3.05 crore from a sister concern during 2011-12. Audit found that as per sale lists filed by the sister concern in KVATIS, their aggregate sales to the assessee during the year was only ₹69.29 lakh and output tax collected and remitted to Government was ₹1.65 lakh. But assessing authority did not reassess the case under Section 25 and disallow incorrectly availed input tax credit of ₹ 6.42 lakh. This resulted in short remittance of tax, cess and interest of ₹ 7.58 lakh.

When this was pointed out in October 2013, the Department stated that the case would be examined. Further, this case was reported to Government in June 2014. Their reply has not been received (October 2014).

• **(CTO, Special Circle II, Ernakulam)**

M/s Lan Mark Shops India Private Limited, Emakulam was a dealer in electrical and electronic goods. As per the annual return filed for 2011-12, the assessee had purchase returns of commodities taxable at 12.5 *per cent* and four *per cent* amounting to ₹1.05 crore. Audit found that for reversing input tax credit, the dealer calculated tax of ₹7.36 lakh only on the above purchase return against the actually due tax of ₹12.96 lakh leading to short assessment of tax of ₹5.60 lakh as shown in Table – 2.6.

Table – 2.6

Sl. No.	Description of goods	Rate of tax (%)	Value	Tax (₹ in lakh)		
				due	assessed	Short assessment
1.	White goods, electrical and electronic goods, microwave oven and cooking range, air conditioner etc.	12.5	103.26	12.90	7.31	5.59
2.	Electronic goods, iron and steel and its products	4	1.49	0.06	0.05	0.01
Total				12.96	7.36	5.60

This resulted in excess availing of input tax credit and consequent short remittance of tax, cess and interest of ₹ 6.79 lakh.

This case was pointed out (January 2014) to the Department and was reported to Government in June 2014. Government stated (October 2014) that the assessing authority had completed the assessment (February 2014) and the assessee had paid ₹7.56 lakh. The reply was not tenable as actual tax amount due was ₹12.96 lakh but only ₹7.56 lakh has been paid.

[Audit paragraph 2.6.4 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)].

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

Excerpts from the discussion of Committee with officials concerned.

105. The Additional Commissioner, GST Department submitted that the objection related to M/s Bams Condiments Impex Pvt. Ltd., Kochi was sustainable, and the outstanding amount had been remitted under the amnesty scheme. The Additional Commissioner, GST Department submitted that the case in respect of M/s Lanmark Shops India Pvt. Ltd., Ernakulam was also sustainable, and the entire arrear amount had been remitted.

Conclusion/ Recommendation

106. No Comments

2.7 Short levy of tax due to escape of turnover from assessment.

Turnover conceded in the return was less than that arrived at as per Rule

2.7.1 As per Rule 10(2)(a) of the KVAT Rules, 2005, in relation to works contract in which transfer of property takes place not in the form of goods but in some other form, the taxable turnover in respect of the transfer of property involved in the execution of works contract, shall be arrived at after deducting labour and other charges specified thereunder from the total amount received for the execution of the works contract. However, if the taxable turnover so arrived at falls below the cost of goods transferred in the execution of works contract, an amount equal to the cost of goods transferred in the execution of works contract together with profit, if any, shall be the taxable turnover in respect of such works contract.

• (CTO (WC<), Palakkad)

M/s Oceanus Dwellings (P) Limited, Palakkad was a works contractor. During 2010-11, the assessee had a total contract receipts of ₹ 20.73 crore. From this, the assessee availed an exemption of ₹ 7.24 crore towards payment to subcontractors and ₹ 5.65 crore under Rule 10. Out of the remaining turnover of ₹ 7.84 crore, ₹ 1.42 crore was assessed to tax at compounded rate of three *per cent* and balance turnover of ₹ 6.42 crore, as non-compounded turnover. Audit found that as per the annual return filed, the assessee had purchases of ₹ 13.09 crore. As such, the non-compounded portion of works contract assessable should not be less than ₹ 13.09 crore against which turnover assessed to tax was ₹ 6.42

crore. Escape of turnover over ₹ 6.67 crore from assessment resulted in short remittance of tax, cess and interest of ₹ 1.02 crore.

When this case was pointed out to the Department in February 2013, the assessing authority agreed to examine the case. The case was reported to Government in May 2014. Their reply has not been received (October 2014).

• **(CTO, (WC<), Kollam)**

Shri. L Satheek, Kallam, a works contractor, filed annual return for 2009-10 conceding total contract receipt of ₹ 5.46 crore. As per the annual return, the assessee availed exemption of ₹ 4.68 crore and self assessed tax on the balance turnover of ₹ 78.26 lakh only. Audit found that the cost of goods transferred to the work together with freight and profit element aggregated to ₹ 5.92 crore. Escape of turnover of ₹ 5.14 crore from self assessment resulted in short payment of tax, cess and interest of ₹ 86.42 lakh.

The case was pointed out to the Department in March 2013 and to the Government in November 2013. Government stated (March 2014) that the assessment was revised creating additional demand of ₹ 1.10 crore and the amount was advised for realisation under revenue recovery. Further report has not been received (October 2014).

• **(CTO (WC<), Kozhikode)**

M/s ERA INFRA Engineering Limited, Kozhikode, a works contractor, disclosed a taxable turnover of ₹ 1.40 crore in their annual return for 2009-10, after availing exemption under Rule 10 of KVAT Rules, 2005. Purchase value of goods transferred to the work during the year was ₹ 2.81 crore. The taxable turnover which includes the gross profit as per the provisions of the KVAT Rules, 2005 would come to ₹ 2.89 crore. However, the assessing authority did not re-assess the escaped turnover of ₹ 1.49 crore. This resulted in short levy of tax, cess and interest of ₹ 21.77 lakh.

The case was pointed out to the Department in September 2011 and reported to the Government in March 2012. Government stated (July 2012) that assessment has been revised creating additional demand of ₹ 18.62 lakh. Further report has not been received (October 2014).

[Audit paragraphs 2.7.1 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)].

[Notes submitted by the Government on the above audit paragraphs are included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

107. Regarding the case related to *M/s Oceanus Dwellings(P)Ltd.*, the Additional Commissioner, GST Department submitted that the dealer had obtained a stay order from Hon'ble High Court, against collecting the balance tax. Regarding Sri. L. Satheek, Works Contractor, Kollam, the Commissioner, GST Department submitted that it was sustainable and a notice had been issued. The Additional Commissioner, GST Department informed that the assessee had remitted forty per cent amount under the amnesty scheme, but Accountant General's observation was that the said amount did not cover forty per cent. The modified demand notice issued was challenged by the dealer in the Hon'ble High Court. The Additional Commissioner, GST Department added that a rectifying order might be issued and the case could be settled. Regarding *M/s ERA INFRA Engineering Ltd*, Kozhikode, the Commissioner, GST Department submitted that it was sustainable and the entire amount had been remitted.

Conclusion/ Recommendation

108. **The Committee directs the department to submit the present status of the stay order in connection with the case related to *M/s Oceanus Dwellings (P) Ltd., Palakkad.***

2.7.2 (Five CTOs)

Explanation VII under Section 2(lii) of the KVAT Act, 2003 stipulates that where a dealer sells any goods purchased by him at a price lower than that at which it was purchased and subsequently receives any amount from any person towards reimbursement of the balance of the price, the amount so received shall be deemed to be turnover in respect of such goods. It was judicially held⁸ that credit notes issued by the manufacturer to the distributor towards recoupment of additional sale price is for the goods sold by him and such cases clearly attracts Explanation VII.

8 2011 (38 VST 74 (Ker) Cement house Vs State of Kerala (High Court of Kerala)

Audit noticed between February 2012 and June 2013 that in five offices, the discount/ incentive received in six cases was not reckoned as turnover for assessing to tax, though the dealers concerned sold goods purchased by them at price lower than that at which they were purchased. The assessing authority did not select the cases for assessment to rectify the defect. This resulted in short payment of tax, cess and interest of ₹61.16 lakh as detailed in Table – 2.7.

Table – 2.7

				(₹ in lakh)
Sl. No.	Name of assessee Name of the circle	Period/ Commodity/Rate	Nature of irregularity	Tax, cess and interest leviable
1.	<u>AB Traders, Amaravila</u> CTO, Special Circle, Thiruvananthapuram	2010-11 Cement/ White cement 12.5%	Goods purchased for ₹ 15.65 crore were sold for ₹ 15.20 crore. Subsequently the assessee received ₹1.42 crore as discount which was not assessed to tax	21.16
Government stated (April 2014) that assessment was revised creating additional demand of ₹ 17.93 lakh as tax and ₹ 4.48 lakh as interest. The dealer remitted ₹7.47 lakh. Further report has not been received (October 2014).				
2.	<u>M. Abubeker, Amaravila</u> CTO, Special Circle, Thiruvananthapuram	2010-11 Cement 12.5%	Goods purchased for ₹ 8.50 crore was sold for ₹ 8.15 crore. Subsequently the assessee received ₹ 83.83 lakh as discount which was not assessed to tax.	12.49
Government stated (April 2014) that assessment has been revised creating additional demand of ₹ 11.29 lakh as tax and ₹ 2.71 lakh as interest and the assessee remitted an amount of ₹4.67 lakh. Further report has not been received (October 2014).				
3.	Lakshmi Digital Plaza, <u>Thrissur</u> CTO, III Circle, Thrissur	2010-11 and 2011-12 Electrical and Electronic goods 12.5%	Goods purchased for ₹ 1.03 crore and ₹ 5.91 crore during 2010-11 and 2011-12 were sold for ₹1.01 crore and ₹5.90 crore. The assessee subsequently	9.82

			received discount of ₹18.79 lakh and ₹48.01 lakh which were not assessed to tax.	
Reply has not been received from Department /Government (October 2014).				
4.	<u>M/s Alpha Agencies,</u> Palakkad CTO, II Circle, Palakkad	2010-11 Electronic goods 12.5%	Goods purchased for ₹ 2.26 crore was sold for ₹1.97 crore. Subsequently the assessee received ₹44.21 lakh as discount which was not assessed to tax.	6.75
Reply has not been received from Department /Government (October 2014).				
5.	<u>M/s Three Star Traders,</u> CTO, Tirur	2010-11 Cement/ White cement 12.5%	Goods purchased for ₹6.32 crore. Subsequently the assessee received ₹39.16 lakh as discount which was not assessed to tax.	5.64
Reply has not been received from Department/Gpvernment (October 2014).				
6.	<u>M/s Alpha International Traders, Mannakkad</u> CTO, Special Circle, Palakkad	2010-11 Cement/ white cement 12.5%	Goods purchased for ₹12.87 crore was sold for ₹12.77 crore. Subsequently the assessee received ₹35.56 lakh as discount which was not assessed to tax.	5.30
Reply has not been received from Department / Government (October 2014)				
Total				61.16

[Audit paragraphs 2.7.2 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)].

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

Excerpts from the discussion of Committee with officials concerned.

109. The Additional Commissioner, GST Department submitted that the cases related to M/s A.B.Traders, Amaravila, Shri.M. Abubaker, Amaravila were sustainable and the entire amount had been remitted.

110. The Commissioner, GST Department submitted that the case related to M/s Lakshmi Digital Plaza, Thrissur was sustainable. The Additional Commissioner, GST Department supplemented that the entire amount demanded had been remitted.

111. While considering the case of M/s Alpha Agencies, the Additional Commissioner, GST Department submitted that the case was not sustainable. The audit objection was that the goods were sold at a price lower than the purchase value. But the assessing authority had reported that the objection would not be sustained as it was profitable to the dealer.

112. Regarding the case related to M/s. Three Star Traders, Tanur, the Additional Commissioner, GST Department submitted that, as per law, in cases where the sales value of goods was lower than the purchase value, any amount received later by the dealer should be treated as turnover. Necessary clarification in that regard had been made by Hon'ble High Court. It should be verified that selling price was lower than the purchase price, the output tax and input tax should be compared, and the excess input tax, if any, alone could be treated as turnover. The amount received later by the dealer should be proved to be the amount provided to reimburse such balance. The Committee enquired whether the detailed RMT was received and if any, additional demand was made as per the assessment. The Senior Audit Officer informed that the RMT was received in the last week. The Additional Commissioner, GST Department informed that no additional demand was made. The Committee accepted the reply and agreed to drop the audit para.

113. While considering the case of M/s Alpha International Traders, the Additional Commissioner, GST Department submitted that it was not sustainable. The purchase price exceeded the selling price as transport and labour charges were added to it, and those charges could be excluded as directed by the appellate authority. The Committee accepted the reply.

Conclusion/ Recommendation

114. No Comments.

2.7.3 (CTO, Special Circle, Palakkad)

As per Section 2(xliv) of the KVAT Act, 2003, sale price includes any sum charged for anything done by the dealer in respect of the goods or services

at the time of or before delivery of, excise duty, special excise duty or any other duty or taxes except the tax imposed under KVAT Act, 2003. As per Section 31(5) of the Act, failure to pay tax or any amount assessed or due, within the time prescribed attracts simple interest at the rate of twelve per cent *per annum*. Further, it was judicially held⁹ by the Hon. Supreme Court of India that if the seller is under obligation to transport goods to the place of the buyer, any incidental or transportation expenses charged will form part of the sale consideration.

M/s SEPR Refractories (I) Limited, Palakkad, a manufacturer of electrocast refractories, tiles adhesives etc., filed annual return for 2010-11 conceding total sales turnover of ₹153.15 crore. Audit found that as per Profit and Loss (P&L) account of the assessee, they had a total sales turnover of ₹159.95 crore including excise duty. The assessing authority did not re-assess the case to tax the escaped turnover of ₹6.81 crore. This resulted in short payment of tax, cess and interest of ₹37.92 lakh.

The case was pointed out to the Department in December 2012 and reported to Government in April 2014. Their replies have not been received (October 2014).

[Audit paragraph 2.7.3 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)].

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

Excerpts from the discussion of Committee with officials concerned.

115. When the Committee enquired about the current status of revenue recovery, the Additional Commissioner, GST Department submitted that the objection in respect of M/s. SEPR Refractories India Ltd. was partially sustainable. The major part of the turnover belonging to the Maharashtra Sales Tax Authority was excluded and, revenue recovery notice had been issued for the balance amount.

Conclusion/ Recommendation

116. The Committee directs the Department to submit a report on

9 34 VST 2010(SC) India Meters Vs State of Tamil Nadu.

the current status of revenue recovery proceedings that had been initiated in connection with M/s SEPR Refractories (I) Ltd, Palakkad.

2.7.4 (CTO, I Circle, Thiruvananthapuram)

Sale of disc tapes, solid state non volatile storage devices, smart cards and other media for recording of sound or of other phenomena, whether or not recorded, are liable to be taxed at four per cent under SI. No. 69 (4) of Third Schedule to KVAT Act, 2003.

M/s. State Institute of Educational Technology, Thycaud, Thiruvananthapuram filed annual return for 2010-11, conceding a taxable turnover of ₹1.30 crore. Audit found that as per the income and expenditure statement forming part of the audited accounts of the assessee, they had an additional income of ₹1.06 crore from sale of educational video programmes during the year, which was not included in the annual return and assessed to tax. The assessing authority also did not re-assess the escaped turnover. This resulted in short payment of tax, cess and interest of ₹5.23 lakh.

The case was pointed out to the Department in March 2013 and reported to Government in January 2014. Government stated (October 2014) that assessment had been completed creating additional demand of ₹5.38 lakh and Revenue Recovery proceeding has been initiated to collect the amount. Further report has not been received (October 2014).

[Audit paragraph 2.7.4 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)].

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

Excerpts from the discussion of Committee with officials concerned.

117. Regarding the case related to M/s. State Institute of Educational Technology, Thycaud, Thiruvananthapuram, the Additional Commissioner, GST Department submitted that it was sustainable, and the entire amount had been remitted under the amnesty scheme.

Conclusion/ Recommendation

118. No Comments.

2.8. Short payment of tax due to non revision of self assessments having defects/ deficiencies.

Assessing authorities did not re-assess tax in the case of defective self assessments

2.8.1 As per Section 25(1) of KVAT Act, 2003 where whole or any part of turnover of business has escaped assessment in any year or where for any reason the whole or any part of the turnover has been assessed at a rate lower than the rate at which it is assessable, the assessing authority may, at any time within five years from the last date of the year to which the return relates, proceed to determine, to the best of its judgment, the turnover which has escaped assessment or the turnover which has been assessed at a rate lower than the rate at which it is assessable and assess the tax payable on such turnover. As per instructions of Commissioner of Commercial Taxes¹⁰, registered dealers are required to upload the details of their interstate sales and stock transferred to other states, of goods before the consignment reaches the check posts and the same is approved by the check post authorities when consignments are released from check posts, these details are linked to KVATIS to enable the assessing authority to ascertain whether the transaction appear in returns filed. As per Section 67(1)(d) of KVAT Act, 2003, submission of untrue or incorrect return will attract penalty upto twice the amount of tax or other amount evaded or sought to be evaded.

• **(14 CTOs¹¹)**

Audit cross verified the details of interstate transfer of stock by way of sale or otherwise by the assesseees with that of the annual returns filed by the assesseees and found that 28 dealers under 14 CTOs had failed to report entire/part of their interstate sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under Section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of

10. Circular No. 16/2011 dated 26.08.2011

11. CTOs Third Circle, Thiruvananthapuram, Special Circle, Alappuzha, Kannur, Kollam, Kottayam, Mattancherry, Palakkad, Thiruvananthapuram, Thrissur, Special Circle I, Kozhikode, Special Circle II, Kozhikode, Special Circle II, Ernakulam, Special Circle III, Ernakulam, Special Circle (Produce) Mattancherry.

₹2.19 crore. Penalty upto ₹3.22 crore was also leviable in these cases as shown in Appendix III(6).

When the case was pointed out to the Department in September 2014, it was stated that a detailed report would be furnished soon after the verification from the offices concerned. The case was reported to Government in September 2014. Their reply has not been received (October 2014).

• **(CTO, Special Circle, Malappuram)**

M/s Tharayil Automobiles, Perinthalmanna was a dealer in motor vehicles and automobiles spare parts. The assessee filed its annual return disclosing the sales turnover of ₹ 1.72 crore during 2011-12. As per P&L account of the assessee for 2011-12, the closing stock of spares conceded was ₹ 5.18 lakh. Audit found that as per the returns and accounts of the assessee for the previous years, its closing stock of spares for 2011-12 should be ₹ 1.13 crore. Hence, there was a suppression of turnover amounting to ₹ 1.12 crore resulting in short levy of tax of ₹ 15.68 lakh including cess and interest as shown in Table – 2.8.

Table – 2.8.

Sl. No.	Description	Amount (₹ in lakh)
1.	Closing stock arrived at by Audit as per details in P & L account	113.25
2.	Closing stock as conceded by the assessee	5.18
3.	Difference in closing stock	108.07
4.	Add conceded GP 3.54 per cent	3.83
5.	Sales turnover suppressed	111.90
6.	Tax short levied (12.5 per cent)	13.99
7.	Cess (one per cent)	0.14
8.	Interest (11 per cent)	1.55
9.	Total Short levy	15.68

This case was pointed out to the Department in May 2013 and reported to Government in February 2014. Their reply has not been received (October 2014).

▪ **(CTO, Special Circle, Malappuram)**

M/s Kerala Automobiles, Manjeri was a dealer in motor vehicles and automobiles spare parts. The sales turnover of spare parts conceded by the assessee for 2010- 11 and 2011-12 were ₹3.40 crore each. Audit found that the actual sales turnover during the years would come to ₹3.99 crore each considering the stock balances, purchases conceded and applying GP of 3.88 *per cent* admitted by the assessee. The assessing authority did not select the case for assessment levying tax on the suppressed turnover. The suppressed turnover was worked out to ₹1.18 crore and resultant short levy of tax amounted to ₹17.36 lakh including cess and interest.

This case was pointed out to the Department in May 2013 and reported to Government in February 2014. Their replies have not been received (October 2014).

• **(CTO, III Circle, Kozhikode)**

M/s. Sahadevan Sons Bakers and Butlers Shop, Kozhikode was selling goods chargeable at different VAT rates - 12.5*per cent*, four *per cent*, one *per cent* and non-taxable. Audit found that the dealer disclosed ₹80.98 lakh as sales turnover of 12.5 *per cent* taxable items in their annual return for 2010-11. Audit worked out the sales turnover of 12.5 *per cent* taxable confectioneries as ₹1.32 crore for 2010-11 from their trading, profit and loss account and connected records. Apparent misclassification of sale of 12.5 *per cent* taxable good as exempted/one/four *per cent* taxable goods resulted in short remittance of tax, cess and interest of ₹7.21 lakh. The assessing authority did not re-assess the case to rectify the defects.

The case was pointed out to the Department in July 2012 and reported to Government in June 2013. Their replies have not been received (October 2014).

• **(CTO, II Circle, Kannur)**

M/s Purushotham Gokuldas, Kannur was a dealer in cosmetics and medicines etc., who was dealing with consignment sale of readymade garments also. During 2010-11, they self assessed to tax a sales turnover of readymade garments for ₹48.58 lakh. Audit found that as per audited accounts, the

assessee had an opening stock, interstate stock transfer into the State and closing stock of readymade garments for ₹ 1.79 crore, ₹ 71.76 lakh and ₹ 84.88 lakh respectively. As such, the cost of readymade garments sold would be ₹ 1.66 crore which was not completely included in the taxable turnover for self assessment. Thus, the assessing authority did not re-assess the escaped sales turnover of ₹ 1.17 crore. This resulted in short payment of tax, cess and interest of ₹ 5.59 lakh.

The case was pointed out to the Department in November 2012 and reported to the Government in June 2013. Government stated (January 2014) that the assessment had been completed creating additional demand of ₹ 5.82 lakh. The revenue recovery action advised has been stayed (August 2013) by DC (Appeals), Kozhikode. Further report has not been received (October 2014).

• **(CTO, II Circle, Thrissur)**

M/s FUMR Agro Exports (P) Limited, Thrissur, a dealer in rice, sauces, jams etc., filed their annual return for 2009-10 disclosing the turnover taxable at 12.5 per cent as ₹ 26.16 lakh. Audit found that as per their annual return for 2009-10, they had purchased 12.5 per cent taxable items for ₹ 64.14 lakh during the year. Closing stock of 12.5 per cent taxable goods disclosed being ₹ 6.36 lakh, the sales turnover would come to ₹ 59.43 lakh, considering the conceded gross profit of 2.85 per cent. The assessing authority did not re-assess to tax the escaped turnover of ₹ 33.27 lakh. This resulted in short payment of tax, cess and interest of ₹ five lakh.

The case was pointed out to the Department in December 2011 and reported to Government in November 2012. Government stated (July 2013) that assessment was revised creating additional demand of ₹ 5.54 lakh. Further report has not been received (October 2014).

[Audit paragraph 2.8.1 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)]

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

Excerpts from the discussion of Committee with officials concerned.

119. While considering the case of Priya Associates, the Additional

Commissioner, GST Department submitted that the goods were transported by Appollo Tyres using the bills of Priya Associates, and that it was wrongly recorded as the transportation transaction of Priya Associates at the check post. The same had been verified and exempted. While Considering the case of General Commodities Ltd, the Additional Commissioner, GST Department informed that the Goods sent by the dealer, Indian Products Ltd. Coimbatore, were only for job works and could not be considered as a sale.

120. The Additional Commissioner, GST Department submitted that the case in connection with Faras Info-techs (Pvt) Ltd. was sustainable and assessment had been completed. The writ appeal filed by the dealer was pending before the Hon'ble High Court. The Additional Commissioner, GST Department submitted that the case H.T. Foods (Pvt) Ltd. was sustainable and assessment had been modified and revenue recovery measures were being taken.

121. The Additional Commissioner, GST Department submitted that the objection related to Kerala Electrical and Allied Engineering Co. Ltd. was sustainable, assessment had been modified, and revenue recovery measures were being taken. The Committee pointed out that the revenue recovery procedures were initiated in 2015 and suggested to speed up the procedures. The Additional Commissioner, GST Department informed that the assessment was modified in 2016 and then in February, and assured that the revenue recovery proceedings would be expedited.

122. The Additional Commissioner, GST Department submitted that the case Lakshmi Match Industries, Kottayam was not sustainable as there was a duplication in check post entry for a transaction of ₹25 lakh. The Additional Commissioner, GST Department submitted that the case in respect of Bestwood Traders, Mattanchery was not sustainable as it was taken up due to the duplication of 26 invoices. In response to a query of the Committee regarding the duplication of bills, the Additional Commissioner, GST Department submitted that no stamping of bills was envisaged and, the error occurred during the initial stage of computerisation. The error could have been avoided if the software at that time had an automatic blocking system for multiple entry of same date and number. The Commissioner, GST Department informed that the details of duplication entries were submitted in the previous hearing. The Committee accepted the reply.

123. The Additional Commissioner, GST Department submitted that the case Zahi Rubbers India Ltd, Mattancherry was verified. Regarding the case of Modern Sanitary, Thrissur the Additional Commissioner, GST Department informed that tax had been remitted by conceding the interstate sale as local sale.

124. The Additional Commissioner, GST Department informed that the case Best Ready Mix Concrete, Thrissur was due to an erroneous entry of two purchase invoices as sales at the check post. When the Committee enquired how such a mistake occurred, the Additional Commissioner, GST Department submitted that the error had occurred during the initial stage of computerisation and the system was not streamlined at that time.

125. The Additional Commissioner, GST Department informed that the case Narmada Business Links (P) Ltd, Thiruvananthapuram was also due to an erroneous entry of the invoice in which the sale made by the dealer, Silpi Construction Contractors with the invoice of Narmada Business Links (P) Limited was wrongly entered into their account by mistake and the same had been verified.

126. The Additional Commissioner, GST Department informed that the case Parthas, Thiruvananthapuram was due to the erroneous entry of a purchase return as a sale and that it was non-sustainable. Regarding the case of Marikar Engineers Private Ltd., Thiruvananthapuram, the Additional Commissioner, GST Department informed that tax had been remitted by conceding the interstate sale as local sale. The transaction for ₹4 lakh was an interstate purchase and another one for ₹78 lakh was for transportation of warranty goods.

127. The Additional Commissioner, GST Department informed that the case in respect of South Indian Federation of Fishermen SOC, Thiruvananthapuram was due to interstate stock transfer which was tax exempted, and the same had been verified.

128. The Additional Commissioner, GST Department informed that the case related to Bombay Rayon Fashions Ltd., Thiruvananthapuram involved interstate stock transfer and export sale, which were exempted from tax and the case had been verified that there was no revenue loss to the department.

129. The Additional Commissioner, GST Department informed that the case in respect of Nirmala Automobiles (P) Ltd., (2010-11), Thiruvananthapuram was also similar to the previous one and was not sustainable.

130. The Additional Commissioner, GST Department informed that the said case in respect of Nirmala Automobiles (P) Ltd., (2011-12), Thiruvananthapuram was also not sustainable as it involved the return of replaced motor parts and accessories, not sales.

131. The Additional Commissioner, GST Department informed that the case in connection with JCT Motors, Thiruvananthapuram was due to an erroneous entry as interstate sale instead of interstate purchase.

132. The Additional Commissioner, GST Department informed that the two cases related to New Chalai Agencies, (2010-11 & 2011-12), Thiruvananthapuram were not sustainable.

133. The Additional Commissioner, GST Department informed that the case in respect of Travancore Mat & Mattings Company, Alappuzha was sustainable and the same had been assessed.

134. The Additional Commissioner, GST Department informed that the objection in respect of Chemmarathil Cashew Company, Kollam was sustainable. He added that ₹126 lakh was from export sales and tax had been paid for the rest of the amount related to interstate sale. When the Committee enquired how the audit objection occurred if tax had been paid, the Additional Commissioner, GST Department submitted that ₹126 lakh was from export sales, which was non taxable and was not shown in the return filed.

135. The Committee opined that in most of the cases considered so far, there were many mistakes on the part of the department such as wrong entry, double entry, verification issues etc., and the Accountant General had found out a difference of ₹353 lakh between the dealer's account and the check post data. The Committee pointed out that even the cases in which entire tax had been paid were also included in the audit report, and enquired why the department officials could not convince it to the audit team. The Additional Commissioner, GST Department informed that there might be a delay in verification of check post vouchers. The Commissioner, GST Department submitted that duplication/omission had occurred in many cases, and such mistakes would not happen in the

future as most of the returns were being examined by them. The Committee opined that many audit objections could have been avoided if such queries were answered on time.

136. In response to a query from the Committee, the Senior Deputy Accountant General informed that while conducting the local audit, audit enquiry would be issued at first and, after verifying the records, report from the headquarters followed by a probable audit findings note would be issued. The audit report would be prepared after such three or four levels. The Committee stated that it was not a good practice to appear before the Committee and give a statement claiming that all audit objections had been resolved, and also pointed out that the audit objections arose due to non timely response to the Accountant General's queries and the non rectification of such defects despite being given multiple occasions.

137. The Commissioner, GST Department accepted the responsibility and submitted that the audit objections could have been avoided if the defects had been rectified at the inspection level. He also assured that utmost care in that regard would be taken in future. He added that certain reconciliation had been done with AG, but a few more defects could also have been rectified, and that such issues would not be repeated in future. The Committee observed that a few cases had been rectified. The Additional Commissioner, GST Department submitted that data of old cases were not available to present officials. He added that the pending cases were resolved promptly at present due to changes in rules. Some of the old cases were also pending before the court.

138. The Additional Commissioner, GST Department submitted that the said case in respect of Hindalco Industries Ltd., Kozhikode was not sustainable.

139. Regarding the cases related to M.C. Traders, Kozhikode, M. Muhammed Nazeem, Kozhikode, PKV Trading Company, Palakkad, Pure Petrochem India Pvt. Ltd., Thiruvananthapuram, Al-Mela Shopping (P) Ltd., Thiruvananthapuram, the Committee accepted the reply furnished by the department.

140. The Additional Commissioner, GST Department submitted that the case in respect of Tharayil Automobiles, Perinthalmanna was sustainable and the tax assessment had been accepted by the Court. The Additional Commissioner,

GST Department submitted that the case in respect of M/s Kerala Automobiles, Manjeri was not sustainable.

141. The Additional Commissioner, GST Department submitted that the case related to M/s Sahadevan Sons Bakers and Butlers Shop, Kozhikode was partially sustainable. The rate of tax shown was incorrect and tax had been assessed and collected. The Additional Commissioner, GST Department informed that the case in respect of M/s Purushotham Gokuldas, Kannur was sustainable. The Additional Commissioner, GST Department submitted that there was a clerical mistake in the figure shown in the return, and the case in respect of M/s FUMR Agro Exports (P) Ltd. was not sustainable.

Conclusions/ Recommendations

142. The Committee directs the Department to furnish the present status of the writ appeal filed by the dealer M/s Faras Info-techs (P) Ltd before the Hon'ble High Court.

143. The Committee directs the Department to furnish the present status of the revenue recovery proceedings initiated in connection with M/s H.T. Foods (P) Ltd and also to submit a report on the status of collection of dues after completing the RR proceedings at the earliest.

144. The Committee directs the Department to expedite the revenue recovery proceedings initiated in respect of M/s Kerala Electrical and Allied Engineering Co. Ltd and to submit a report regarding the collection of dues after completing the RR proceedings at the earliest.

145. Regarding the case of M/s Travancore Mat & Mattings Company, Alappuzha, the Committee directs the department to furnish a report regarding the realisation of revenue urgently.

146. The Committee directs the Department to furnish a detailed report on collection of demand if any, due from M/s. Chemmarathil Cashew Co., Kollam, M/s Tharayil Automobiles, Perinthalmanna and from M/s Purushotham Gokuldas, Kannur at the earliest.

2.9. Short levy of tax due to incorrect exemption of turnover

Turnover was exempted from tax against the provisions of Act.

• (CTO, Special Circle I, Ernakulam)

Section 5(2) of CST Act, 1956 stipulates that a sale or purchase of goods shall be deemed to take place in the course of import of the goods into the territory of India only if the sale or purchase either occasions such import or is effected by a transfer of documents of title to the goods before the goods crossed the customs frontiers of India.

M/s Voltas Limited, Kochi was a dealer in air conditioners, automobiles spare parts, white goods etc. During 2011-12, the assessee imported fork lift from Italy and sold it to Port Officer, Kollam port and availed exemption on its sales turnover of ₹2.84 crore claiming it as sale in the course of import. Audit found that as per the delivery note, the ownership of the commodity was with the assessee even after it crossed customs frontiers of India and hence subsequent sale was intrastate sale liable to be taxed under KVAT Act, 2003. Assessing authority did not re-assess the case rectifying the defect. This resulted in short payment of tax, cess and interest of ₹42.09 lakh.

On this case being pointed out in December 2013, the assessing authority stated that the case would be examined. Further, this case was reported to Government in June 2014. Their reply has not been received (October 2014).

2.10. Short levy of tax due to non-assessment/incorrect computation of contract receipt.

Contract receipts were not assessed to tax as per the provisions of KVAT Act, 2003.

As per Section 6(1) of the KVAT Act, 2003, transfer of goods involved in the execution of works contract where transfer is not in the form of goods is liable to be taxed at 12.5 per cent on transfer value of goods. The Commissioner of Commercial Taxes clarified¹² in November 2006 that in the case of supply and installation of sign boards, transfer is in the form of goods, irrespective of the fact whether it is a tradable commodity or not. As per KVAT Act, 2003, electric lighting and visual signaling equipment are liable to be taxed at 12.5 per cent under Sl No.33 (14) of the list of goods taxable at 12.5 per cent notified under KVAT Act, 2003.

¹² Order No. C7.31433/06/CT dated 18.11.2006

• **(CTO, Special Circle, Thiruvananthapuram)**

Keltron Communications, Thiruvananthapuram did not assess any tax on contract receipts of ₹1.11 crore and ₹95.18 lakh received during 2009-10 and 2010-11 respectively towards supply, erection and commissioning of traffic signal system. As the contract was for signaling system which is in the form of goods, the entire turnover was liable to be assessed at 12.5 *per cent*. Non-assessment of contract receipts to tax resulted in short payment of tax, cess and interest of ₹ 33.13 lakh.

This case was pointed out to the Department in December 2012 and reported to Government in January 2014. Government stated (April 2014) that pre-assessment notice had been issued to the assessee to assess the contract receipts. Further report has not been received (October 2014).

• **(CTO, Special Circle, Kollam)**

M/s Jose Electricals, Kollam was a dealer in electrical goods who undertakes electrical contract works also. During 2008-09, 2009-10 and 2010-11, they received ₹ 95.46 lakh, ₹ 46.29 lakh and ₹ 92.91 lakh respectively on various electrical contract works awarded by Railways, Public Works Department (PWD) Electrical Division, Kollam Corporation, Kerala State IT Mission etc. The assessee claimed exemption from tax on these receipts on the ground that materials involved were already assessed to tax at scheduled rate at the time of purchase. As the assessee is liable to pay tax under Section 6 (1)(f) of KVAT Act, 2003, cost of goods transferred to works contract together with profit element was liable to be assessed at 12.5 *per cent*. Non assessment of tax on cost of goods along with profit element resulted in short remittance of tax, cess and interest of ₹ 16.70 lakh.

This case was pointed out to the Department in March 2013 and reported to the Government in April 2014. Government stated (August 2014) that the assessments were revised by creating additional demand of ₹ 16.82 lakh. Further report has not been received (October 2014).

[Audit paragraphs 2.9 and 2.10 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)].

[Notes submitted by the Government on the above audit paragraphs are included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

147. The Additional Commissioner, GST Department submitted that the above cases were sustainable.

Conclusion/ Recommendation

148. The committee directs the department to furnish the details regarding the present status of revenue collection in respect of *M/s Voltas Limited, Kochi, Keltron Communications, Thiruvananthapuram and M/s Jose Electricals, Kollam to the Committee at earliest.*

2.11. Short levy of compounded tax

Compounded tax was not levied on the newly purchased cone crusher

• (CTO, Thiruvalla)

As per Rule 11(7) of KVAT Rules, 2005, where any additional machinery or machineries are installed by a dealer producing granite metals with the aid of mechanised crushing machine who had opted for payment of compounded tax, the details thereof shall be furnished to the assessing authority within fifteen days of such installation and the assessing authority shall revise the permission granted. As per Section 8(b) (iv) of KVAT Act, 2003, the compounded tax payable for cone crusher during 2011-12 was ₹ 15 lakh per annum.

M/s. Kuzhuvamannil Industries, Pullad was a metal crushing unit. They had two primary crushers and four secondary crushers during 2010-11 for which they paid ₹16.80 lakh as compounded tax. Audit found that as per annexure to balance sheet of the assessee for 2010-11, they had purchased a cone crusher for ₹ 57.49 lakh during the year and availed admissible depreciation during 2010-11 and 2011-12. However the cone crusher was not taken into account while the assessing authority fixed the compounded tax for 2011-12. Consequently, compounded tax for the year was fixed at ₹16.97 lakh (including cess) instead of ₹39.69 lakh. This resulted in short payment of tax, cess and interest of ₹26.59 lakh.

When the case was pointed out to the Department in October 2013, it was stated that notice had been issued to the dealer. Further, the case was reported to

Government in May 2014. Their reply has not been received (October 2014).

[Audit paragraph 2.11 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)].

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

Excerpts from the discussion of Committee with officials concerned.

149. Regarding the audit para, the Additional Commissioner, GST Department submitted that AG's finding was that one machine in the crusher unit was not taken into account for assessment of tax and, the case was verified and found not sustainable. Many units would obtain permission to operate three machines though their capacity would be to run two machines, and the Pollution Department also had conceded that the machine had not been utilised despite getting the license. In many cases pointed out by AG, joint inspection had been conducted and irregularities detected, but in that particular case, it could not be proved that the machine was used in the Audit period. Even though the tax was assessed, it would not stand in the court as the site inspection could not be carried out during the Audit period. The Committee opined that it would be difficult to prove the case in the court, if inspection had not been carried out.

Conclusion/ Recommendation

150. No Comments

2.12 Reckoning of sales as works contract and consequent short levy of tax

The assessee reckoned sales as works contract to reduce tax liability

- (CTO (WC<), Thrissur)

As per KVAT Act, 2003, motor bodies built on chassis of motor vehicles are liable to be taxed at 12.5 per cent. It was judicially held¹³ that construction of body on a vehicle is a contract of sale.

M/s. Renil Auto Garage, Thrissur was an assessee running the business of body building for motor vehicles. During the period from 2006-07 to 2009-10, their

¹³ Mckenzie's Ltd. Vs State of Maharashtra (SC) and CC Sebastian Vs State of Kerala (16 KTR 117(Ker))

total turnover was ₹1.61 crore. Audit found that the assessee self assessed to tax the above turnover at two/three *per cent*, treating it as works contract instead of assessing it as sale at 12.5 *per cent*. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short payment of tax, cess and interest of ₹22.26 lakh.

This case was pointed out to the Department in November 2011 and reported to Government in November 2012. Government stated (July 2014) that assessments have been completed creating additional demand of ₹22.22 lakh and Revenue Recovery Certificate was issued to collect the amount. Further report has not been received (October 2014).

2.13 Non-payment of surcharge

Surcharge leviable under Kerala Surcharges on Taxes Act, 1957 was not levied.

• (CTO, II Circle, Kalamassery)

As per Section 3(1A) of the Kerala Surcharge on Taxes Act, 1957 (KST Act, 1957), in the case of national or multinational companies functioning in the State as retail chains or direct marketing chains who import not less than 50 *per cent* of their stock from outside the State or country, the tax payable under KVAT Act, 2003 on goods shall be increased by a surcharge at the rate of 10 *per cent*, if 75 *per cent* of the sales are retail business, and total turnover exceeds five crore rupees.

M/s K-Link Healthcare (India) Private Limited, Kochi was a multinational company involved in direct marketing of health care products. As per annual return filed by the assessee during 2011-12, their entire products for sale were imported from outside the State and sales turnover for the year was ₹7.14 crore. Audit found that though more than 75 *per cent* of their sales were through direct marketing/retail chain, the output tax of ₹77.98 lakh was not increased by a surcharge at 10 *per cent* as per provisions of the KST Act, 1957. This resulted in short payment of surcharge and interest of ₹8.66 lakh.

The case was pointed out to the Department in April 2013 and reported to the Government in May 2014. Government stated (October 2014) that the assessment for 2011-12 was completed creating additional demand of ₹27.80 lakh. The assessee remitted (January 2014) an amount of ₹13.95 lakh. Balance amount is under stay by Hon'ble High Court. Further report has not been received (October 2014).

2.14 Non-levy of tax due to failure of completion of assessment

The assessing authority did not assess tax on the turnover disclosed in the P&L account.

- (CTO, Perinthalmanna)

As per Section 8 (b) of the KVAT Act, 2003, dealers producing granite metals with the aid of mechanised crushing machines can opt to pay tax at compounded rates varying from ₹30,000 per annum to ₹18 lakh per annum depending on the size and nature of the crusher. As per Section 25 of KVAT Act, 2003, if whole or part of the business of a dealer escaped assessment to tax in any year the assessing authority may, at any time within five years from the last date of the year to which return relates, proceed to determine to best of its judgment, the turnover which has escaped assessment and assess tax payable on the same.

Inspection conducted by the Intelligence Officer, Squad I, Commercial Taxes, Malappuram, in the business place of M/s Angadippuram Blue Metals, Eranthodu, an unregistered metal crusher unit, during August 2007, revealed a suppression of turnover of ₹26.50 lakh, and the intelligence officer imposed (March 2008) a penalty of ₹6.62 lakh. The Deputy Commissioner (Appeals) reduced the penalty (February 2012) to ₹4.97 lakh, the recovery of which was stayed (July 2012) by the KVAT Appellate Tribunal. As per the trading, P&L account filed, the assessee had sales turnover of ₹27.04 lakh for 2007-08.

Though, penalty was imposed for non-registration, non-maintenance of accounts and non-compliance to statutory notices, no action was taken by the assessing authority to assess the turnover disclosed in the P&L account. This resulted in non-levy of tax and interest of ₹5.54 lakh.

This case was pointed out to the Department in September 2013 and reported to Government in February 2014. Their replies have not been received (October 2014).

Sales Tax

2.15 Short levy of tax due to incorrect computation of compounded tax

While computing the compounded tax, rate was applied on incorrect turnover tax reckoned for previous year.

Section 7 of the Kerala General Sales Tax Act, 1963, as amended in July 2006, stipulates that any bar attached hotel not being a star hotel of and above three star hotel, heritage hotel or club, may, at its option, pay turnover tax on the turnover of foreign liquor calculated at one hundred and forty per cent of the purchase value of such liquor or at one hundred and fifteen per cent of the highest turnover tax payable by it as conceded in the return or accounts or the turn-over tax paid for any of the previous consecutive three years, whichever is higher.

- **(CTO I Circle, Tripunithura)**

M/s Thiruvankulam Tourist Home, Tripunithura was a bar attached hotel. As per the assessment order for 2008-09, the compounded tax payable by the assessee for the year was fixed at ₹38.37 lakh taking the highest turnover tax for the previous consecutive three years. As such, turnover tax for 2009-10 and 2010-11 would come to ₹44.56 lakh and ₹51.25 lakh respectively including cess, based on the turnover tax for 2008-09. However, while finalising the assessment, the assessing authority fixed turnover tax for 2009-10 and 2010-11 at ₹ 35.18 lakh and ₹40.80 lakh respectively. The incorrect computation of compounded tax resulted in short levy of tax, cess and interest of ₹ 25.52 lakh.

This case was pointed out to the Department in November 2013 and reported to Government in May 2014. The Government stated (October 2014) that assessment for 2009-10 and 2010-11 had been revised creating total additional demand of ₹27.40 lakh. The assessee remitted ₹11.06 lakh and the balance amount of ₹16.34 lakh is still pending for realisation under revenue recovery. Further report has not been received (October 2014).

• **(AIT & CTO, Kuthiyathode)**

M/s Hotel Mithila Bar, Eramallur was a bar attached hotel. While finalising turnover tax assessment for 2007-08, turnover tax at compounded rate was arrived at ₹37.06 lakh, taking the highest turnover tax payable for the previous three consecutive years. The turnover tax for 2008-09 and 2009-10 were fixed at ₹ 42.62 lakh and ₹49.51 lakh respectively, based on the turnover tax fixed for 2007-08. Audit found that the sale of liquor reported in the P&L account of the assessee for 2006-07 was ₹3.59 crore and hence the turnover tax payable for 2006-07 would come to ₹35.90 lakh. As such, the turnover tax payable for 2007- 08, 2008-09 and 2009-10 at 115 *per cent* of turnover tax of the preceding years would be ₹41.28 lakh, ₹47.47 lakh and ₹54.59 lakh respectively. Incorrect computation of turnover tax resulted in short levy of tax, cess and interest of ₹21.13 lakh.

This case was pointed out by Audit in May 2013 and reported to Government in November 2013. Government stated (April 2014) that assessment for the years 2008-09 and 2009-10 were reopened under Section 19 of the KGST Act, 1963 and the revenue recovery proceedings were initiated for recovery of arrears. The assessee also remitted 25 *per cent* of arrears. The case is pending with DC (Appeals), Kollam. It was also stated that action would be taken to revise the assessment for 2007-08 cancelling the original assessment. Further report has not been received (October 2014).

• **(CTO, Special Circle II, Emakulam)**

M/s Hotel Yuvaraj (P) Ltd., Thevara was a bar attached hotel. The turnover tax assessments for 2006-07, 2007-08 and 2008-09 of the assessee were revised in June 2012 and the turnover tax at compounded rate was fixed at ₹28.64 lakh, ₹30.38 lakh and ₹32.43 lakh respectively at 115 *per cent* of the highest tax payable in previous three consecutive years. Audit found that based on compounded tax fixed for 2006-07, turnover tax for 2007-08 and 2008-09 would be ₹32.93 lakh and ₹38.52 lakh respectively at 115 *per cent* of the turnover tax for the preceding year. Incorrect computation resulted in short levy of turnover tax, cess and interest of ₹12.28 lakh.

When this case was pointed out by Audit (December 2012), the Department stated in May 2013 that assessments were revised in December 2012 and additional demand of ₹3.98 lakh and ₹1.30 lakh were created for 2007-08 and

2008-09. Reason for variation in short levy pointed out and additional demand created has not been explained.

The case was reported to Government in May 2014. Their reply has not been received (October 2014).

• **(AIT & CTO, Kuthiyathode)**

M/s Envees Inn Bar, Eramallur was a bar attached hotel. While finalising turnover tax assessment for 2009-10, the assessing authority fixed the turnover tax at compounded rate of ₹21.23 lakh and that of 2010-11 at ₹24.41 lakh. Audit found that the assessee conceded the sale of liquor in the P&L account for 2008-09 as ₹1.98 crore and hence the turnover tax payable for 2008-09 would come to ₹19.75 lakh. As such, the turnover tax for 2009-10 and 2010-11, calculating at 115 *per cent* of that for preceding years, would be ₹22.72 lakh and ₹26.12 lakh respectively. Incorrect computation of turnover tax resulted in short levy of tax, cess and interest of ₹4.19 lakh.

When the case was pointed out in May 2013, Department stated in July 2013 that assessment under Section 19(1) of the KGST Act, 1963 was completed (June 2013) for the assessment years 2009-10 and 2010-11 and an additional demand of ₹4.25 lakh was created. The case was reported to Government in November 2013. Their reply has not been received (October 2014).

[Audit paragraphs 2.12, 2.13, 2.14 and 2.15 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)].

[Notes submitted by the Government on the above audit paragraphs are included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

151. Regarding the case related to M/s Renil Auto Garage, Thrissur, the Additional Commissioner, GST Department submitted that complaint had been filed in the Appellate authority against the assessment. The verdict for the assessment years 2006-07 and 2007-08 was against the department and that for the years 2008-09 and 2009-10 was in favour of the department. Both the parties had filed appeal against the verdict and the cases were pending.

152. Regarding the case related to M/s K-Link Healthcare India Pvt. Ltd, Palarivattom, M/s Angadippuram Blue Metals, Ernthode, Valamboor P.O. and

M/s Thiruvankulam Tourist Home Tripunithura, the Additional Commissioner, GST Department submitted that the said three cases were sustainable and tax assessment was completed.

153. The Additional Commissioner, GST Department informed that the objection related to M/s Hotel Mithila Bar was sustainable and ₹2.87 lakh out of ₹40.36 lakh demanded had been collected. When the Committee enquired about the status of the balance amount, the Additional Commissioner, GST Department submitted that the demand had been modified recently and the collection details were not available.

154. The Additional Commissioner, GST Department informed that the case in respect of M/s Hotel Yuvaraj (P) Ltd. was sustainable. The entire payment had not been completed, but an amount of ₹2.87 lakh had been remitted. Demand modification was done during the month of May 2023 and revenue recovery was pending. The Committee pointed out that it was not mentioned in the reply furnished and demanded the present status report. The Additional Commissioner, GST Department submitted that the same would be furnished.

155. The Additional Commissioner, GST Department informed that the case in respect of M/s Envees Inn Bar, Kuthiathode was sustainable and tax had been remitted.

Conclusions/ Recommendations

156. The Committee directs the Department to furnish the present status of the cases filed in connection with M/s Renil Auto Garage, Thrissur urgently.

157. The Committee directs the Department to furnish a detailed report on the status of collection of demand due from M/s K-Link Healthcare India Pvt. Ltd, Palarivattom, M/s Angadippuram Blue Metals, Ernthode, Valamboor P.O., M/s Thiruvankulam Tourist Home, Tripunithura and M/s Hotel Mithila Bar at the earliest.

158. The Committee directs the Department to submit the details of the present status of revenue recovery proceedings initiated in connection with M/s Hotel Yuvaraj (P) Ltd., Thevara.

2.16 Short levy of tax due to incorrect assessment

Incorrect reckoning of turnover tax resulted in short levy of compounded tax.

As per Section 5(2) of the KGST Act, 1963, bar attached hotels are liable to pay turnover tax at 10 per cent of turnover of foreign liquor sold by them. However, as per Section 7 of KGST Act, 1963, bar hotels of below three star can opt for payment of such tax at compounded rate. For bar hotels, the rate effective from 1st July, 2006, is higher of (a) the turn over tax on the turnover of foreign liquor calculated at 135 per cent of purchase value of liquor, for hotels situated in *panchayat* area and at 140 per cent of purchase value of liquor for bar hotels situated in municipal corporation area or (b) 115 per cent of highest turnover tax payable by it as conceded in the return or accounts or the turnover tax paid, for any of the previous consecutive three years. As per Rule 13(3) of Foreign Liquor Rules, 1953 (FL Rules, 1953), from 1st April, 2007, only three star hotels and above are eligible for bar license but existing licensees not having above classification and functioning on 31st March, 2007, shall be regularised. In the case of dealers in foreign liquor other than bar attached hotel, turnover tax payable as per the Act is five per cent of the turnover of foreign liquor.

- (CTO, Special Circle, Thiruvananthapuram)

M/s Hotel City Light Private Limited, Pothencode and M/s Hotel City Palace Private Limited, Pottakuzhy were bar attached hotels which opted for payment of tax at compounded rate.

The turnover tax assessments for 2007-08 to 2009-10 of the assesseees were originally finalised as a continuing business in December 2011 and revised in March 2012 accepting the assessee's claim that it was new business, as it was taken over from a firm by a newly incorporated company with effect from 1st April, 2007. Consequently, turnover tax for 2007-08 was fixed based on purchase turnover of liquor instead of at 115 per cent of the tax payable on 2006-07 which was higher. Tax for 2008-09 and 2009-10 were also fixed based on the incorrectly fixed tax for 2007-08.

Audit found that the companies were registered in October, 2005 and had applied for transfer of license in November, 2005. As such, the companies

were running the business since 2005-06. Bar licenses were in the name of the same individual even after incorporation as company. If they were new entities after 31 March, 2007, Rule 13(3) of FL Rules, 1953, ought to have prevented it from grant of bar license as the hotels had no three star status. Incorrect assessments of 2007-08 to 2009-10 during revision resulted in short levy of tax, cess and interest amounting to ₹46.19 lakh as shown in Table – 2.9.

Table – 2.9

Name of Assessee/ Area Name of Office	Turnover tax fixed			Turnover tax payable			Short levy (including cess and interest)
	2007-08 (based on purchase turnover of liquor)	2008-09 (115% of turnover tax for 2007- 08)	2009-10 (115% of turnover tax for 2008- 09)	2007-08 (based on tax payable for 2006-07)	2008-09 (115% of turnover tax for 2007-08)	2009-10 (115% of turnover tax for 2008-09)	
M/s Hotel City Light Private Limited, Pothencode Panchayat area CTO, Special Circle, Thiruvananthapuram	28.96	33.84	38.92	36.39	42.27	48.61	37.00
M/s Hotel City Palace Private Limited, Pottakuzhy Municipal Corporation area CTO, Special Circle, Thiruvananthapuram	15.98	18.56	21.35	17.80	20.67	23.77	9.19
Total							46.19

These cases were pointed out to the Department in March 2013 and reported to Government in January 2014. Their replies have not been received (October 2014).

• **(CTO, Special Circle I, Ernakulam)**

M/s Kerala State Co-operative Consumer Federation Limited, Kochi is a dealer in many consumer products and Indian Made Foreign Liquor (IMFL). During 2011-12, the assessee conceded a turnover of ₹639.23 crore relating to sale of foreign liquor which was assessed to turnover tax. Audit found from the P&L account that during the year, the assessee had other trading income of ₹96.64 lakh being chilling charges. The assessee did not include this turnover for

calculating turnover tax. The assessing authority did not select the case for revised assessment to rectify the defect. Escapement of turnover of ₹96.64 lakh from assessment resulted in short payment of turnover tax, cess and interest of ₹ 5.71 lakh.

The case was pointed out to the Department in October 2013 and reported to Government in June 2014. Their replies have not been received (October 2014).

[Audit paragraphs 2.16 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)]

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

Excerpts from the discussion of Committee with officials concerned.

159. The Additional Commissioner, GST Department informed that the case was not sustainable. The hotels functioned in partnership were converted into company. As per the rule, the highest amount of tax liable during the last three years should be assessed as compounded tax for that year, but the said period of three years became not applicable to them as the management had changed and a new firm came in the place. Hence, the case became non sustainable. When the Committee enquired whether such a change was made for tax evasion, the Additional Commissioner, GST Department submitted that it could not be so.

160. The Additional Commissioner, GST Department informed that the case in respect of M/s. Kerala State Co-operative Consumers Federation Ltd. Regarding the short levy of tax due to incorrect assessment was sustainable and tax had been remitted.

Conclusion/ Recommendation

161. No Comments

2.17 Short levy of social security cess due to incorrect computation

Social security cess was short levied while completing assessment.

- **(CTO, Special Circle I, Ernakulam)**

As per Section 6 of Kerala Finance Act, 2008, social security cess at the rate of one per cent is leviable on tax payable under Section 5 and 7 of KGST Act, 1963 from 1st April, 2008, onwards.

M/s. Kerala State Co-operative Consumer Federation Limited, Kochi was a dealer in IMFL along with other consumer products. During 2011-12, they had a turnover of ₹639.23 crore relating to sales of IMFL for which turnover tax admitted was ₹34.33 crore. Audit found that the assessee was liable to pay one *per cent* cess on ₹34.33 crore which amounted to ₹34.33 lakh against which the assessee paid only ₹6.83 lakh. The assessing authority also did not take any steps to demand the short remittance of cess. This resulted in short collection of cess and interest of ₹32.17 lakh.

When this was pointed out in October 2013, the assessing authority stated that the case would be examined. Further, this case was reported to Government in June 2014. Their reply has not been received (October 2014).

[Audit paragraph 2.17 contained in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31st March, 2014)]

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

Excerpts from the discussion of Committee with officials concerned.

162. The Additional Commissioner, GST Department informed that the case in respect of the short levy of social security cess due to incorrect computation in connection with M/s Kerala State Co-operative Consumers Federation Ltd. was sustainable and tax had been remitted.

Conclusion/ Recommendation

163. No Comments

Thiruvananthapuram,
...12th... March, 2025.

SUNNY JOSEPH,
Chairperson,
Committee on Public Accounts.

APPENDIX I

SUMMARY OF MAIN CONCLUSION/ RECOMMENDATION

Sl. No.	Paragraph No.	Department Concerned	Conclusion/ Recommendation
(1)	(2)	(3)	(4)
1	60	Taxes	The Committee directs the Department to submit a detailed report regarding the present status of the case filed in respect of Duro Flex Pvt. Ltd., 3204231985, (2011-12), CTO, Special Circle, Alappuzha and PAN Marketing, 32050274455, (2009-10), CTO, Special Circle, Kottayam within two months.
2	61	"	Regarding the case related to Evergrowing Iron & Finvest Ltd., 32070247424, (2011-12), CTO, Special Circle 1, Ernakulam, the Committee directs the Department to furnish the current status of stay order dated 06.03.2014 within two months.
3	62	"	The Committee observes that there is a difference of ₹1.44 crore in the total amount of particulars of purchase. Hence, the Committee urges the department to submit a detailed report in respect of EICL Limited, 32010125905 (2011-12), CTO, III Circle, Thiruvananthapuram after examining the matter in detail within two months.
4	63	"	The Committee evaluates that if a time limit is not fixed for the completion of revenue recovery procedures, they will endlessly be prolonged, become irrelevant in course of time and cause huge loss to the State exchequer. Therefore, the Committee urges that all revenue recoveries, free from court interventions should be completed in a time bound manner and be intimated to the concerned administrative department within a specified time frame.
6	64	"	The Committee observes that the revenue recovery measures has not yet been completed in cases in respect of Asian Paints limited, 32070289814, (2010-11), Falcon Tyres Ltd., 32070344725, (2010-11), CTO, Special Circle II, Ernakulam, Koppara Enterprises Printing and Copy Solutions India Private Limited, 32021674839, (2009-10), CTO special Circle, Kollam, Bhima Traders, 32111266904, (2010-11), (2011-

			12),CTO, Vadakara, The Mobile store Limited, 32071623592, (2010-11), CTO, II Circle, Eranakulam, Neha Leather, 32071753001, (2011-12), CTO, Special Circle, Ernakulam. Therefore, the Committee directs to furnish a report on the current status of revenue recovery proceedings as well as the details regarding the measures taken to expedite the said process.
7	70	”	The Committee observes that the revenue recovery measures have not yet been completed in cases related to M/s Stanes Trading Co. and M/s Giby Traders. Therefore, the committee directs that a report on the current status of revenue recovery proceedings on the said cases be furnished to the Committee within two months.
8	75	”	As the revenue recovery measures initiated in case related to Ojin Foods (P) Limited have not yet been completed, the Committee directs that a report on the current status of revenue recovery proceedings should be furnished to the Committee within a month.
9	79	”	The Committee directs the department to furnish the present status of the writ petition filed in respect of the case related to M/s. Thermal Tech Engineers, Perumbavoor.
10	83	”	The Committee directs the department to furnish the present status of the appeal petition filed in respect of the case related to M/s. Tiptop Furniture Industries, Kottakkal.
11	87	”	The Committee directs the department to submit the present status of appeal petition filed before the Hon'ble High Court of Kerala.
12	99	”	The Committee observes that excess input tax credit availed by certain dealers resulted in short levy of tax, credit and interest. Therefore, the Committee directs the Department to find out similar cases, if any and report them to the Committee as soon as possible.
13	100	”	The Committee also directs the Department to furnish a detailed report on the collection of demand, if any, due from M/s Parisons Foods (P) Ltd. to the Committee at the earliest.
14	101	”	The Committee directs the department to submit a detailed report in respect of the objection pointed out by the Accountant General in connection with M/s E.V. Mathai & Sons, Kothamangalam at the earliest.

15	102	”	Regarding the case related to M/s Kerala State Electronics Corporation, Manvila, the Committee directs the department to submit a report on the status of realisation of revenue at the earliest.
16	108	”	The Committee directs the department to submit the present status of the stay order in connection with the case related to M/s Oceanus Dwellings (P) Ltd., Palakkad.
17	116	”	The Committee directs the Department to submit a report on the current status of revenue recovery proceedings that had been initiated in connection with M/s SEPR Refractories (I) Ltd, Palakkad.
18	142	”	The Committee directs the Department to furnish the present status of the writ appeal filed by the dealer M/s Faras Info-techs (P) Ltd before the Hon'ble High Court.
19	143	”	The Committee directs the Department to furnish the present status of the revenue recovery proceedings Initiated in connection with M/s H.T. Foods (P) Ltd and also to submit a report on the status of collection of dues after completing the RR proceedings at the earliest.
20	144	”	The Committee directs the Department to expedite the revenue recovery proceedings initiated in respect of M/s Kerala Electrical and Allied Engineering Co. Ltd and to submit a report regarding the collection of dues after completing the RR proceedings at the earliest.
21	145	”	Regarding the case of M/s Travancore Mat & Mattings Company, Alappuzha, the Committee directs the department to furnish a report regarding the realisation of revenue urgently.
22	146	”	The Committee directs the Department to furnish a detailed report on collection of demand if any, due from M/s. Chemmarathil Cashew Co., Kollam, M/s Tharayil Automobiles, Perinthalmanna and from M/s Purushotham Gokuldas, Kannur at the earliest.
23	148	”	The committee directs the department to furnish the details regarding the present status of revenue collection in respect of M/s Voltas Limited, Kochi, Keltron Communications, Thiruvananthapuram and M/s Jose Electricals, Kollam to the Committee at earliest.
24	156	”	The Committee directs the Department to furnish the present status of the cases filed in connection with M/s Renil Auto Garage, Thrissur urgently.

25	157	”	The Committee directs the Department to furnish a detailed report on the status of collection of demand due from M/s K-Link Healthcare India Pvt. Ltd, Palarivattom, M/s Angadippuram Blue Metals, Ernthode, Valamboor P.O., M/s Thiruvankulam Tourist Home, Tripunithura and M/s Hotel Mithila Bar at the earliest.
26	158	”	The Committee directs the Department to submit the details of the present status of revenue recovery proceedings initiated in connection with M/s Hotel Yuvaraj (P) Ltd., Thevara.

Statement of Action Taken on C & AG on revenue for the year ended 31st March 2014

Sl. No	Para No	Recommendation	Remarks
1.	1.1	Trend of revenue receipt	<p>As reported in the Audit Report (Revenue Sector) for the year ended 31st March 2014, the actual collection of revenue during the year 2013-14, under the State Excise decreased drastically in comparison with the budget estimate as well as the collection in the previous year 2012-13. Major decrease in revenue occurred in the heads of account '0039-00-105-Foreign Liquors and spirits'. The reasons for the said variation in the actual receipts of revenue during 2013-14 is detailed below.</p> <p>0039-00-105 Foreign Liquors and Spirits-97 Duty on Wines & Spirits Manufactured in India</p> <p>The major source of excise revenue (more than 60%) is the excise duty imposed on wines and spirits manufactured in India. The excise duty so collected is directly related to the volume of sale of Indian Made Foreign Liquor.</p> <p>During the year 2013-14, the sale of liquor showed a negative growth rate when compared to the sale volume in previous years. IMFL sale volume which was growing at an annual rate of 15.61% in 2010-11, has dropped to an annual growth rate of -1.5% in 13-14. When 244.33 Lakh cases of IMFL was sold in 2012-13, the sale of IMFL declined to 240.67 Lakh cases in 2013-14. The comparative analysis is shown below:-</p>

Years	Sale (in lakh cases)	% of growth/ decline compared to previous year
2010-11	217.41	15.61%
2011-12	241.78	11.21%
2012-13	244.33	1.05%
2013-14	240.67	-1.50%

The IMFL sale value, which was also growing at an annual rate of 21.49% in 2010-11, dropped to 6.07% during 2013-14. The comparative analysis is shown below:-

Years	Sale (in lakh cases)	% of growth/ decline compared to previous year
2010-11	6730.3	21.49%
2011-12	7861.74	16.81%
2012-13	8818.18	12.17%
2013-14	9353.74	6.07%

The decline in the sale volume of liquor is assumed to be as a result of the anti-liquor awareness programmes conducted by the Government. The revenue generated from excise duty is directly related to the sale volume of IMFL. Since the Government had not intended to increase the sale volume of liquor, as the policy of the Government was to reduce the consumption of liquor step by step, subsequent reduction in revenue under excise duty had taken place.

		<p>In the above circumstances, even though the revenue collected under the head of account 0039-00-105 Foreign Liquors and Spirits-97 Duty on Vines & Spirits Manufactured in India had shown a marginal increase against that of previous year, the budget estimate for 2013-14 couldn't be achieved. Since the budget estimate was prepared on the assumption that the growth rate of the sale of IMFL would maintain that of the previous years, and thereby the revenue derived from the excise duty would also be increased accordingly, there arose a higher estimate under the aforesaid head of account and hence a short fall of 25% in the revenue collected. This shortfall is almost 50% of the overall shortfall in the excise revenue during the year 2013-14, against the actual budget estimate.</p> <p>0039-00-105 Foreign Liquors and Spirits-99 Licence Fees.</p> <p>All Foreign Liquor Licence fees, except that of FL1 shops, are remitted in this head of account. The Licence Fee for the licences under Foreign Liquor Rules, 1953, is being collected in advance, during the preceding financial year itself, for effecting renewal of these licences with effect from 1st April. As such, licence fees for 2013-14 was collected during March 2013, in the financial year 2012-13. But foreign liquor licences were not renewed during the month March 2014 due to delay in finalizing the Abkari Policy for theyear 2014-15, and hence major portion of the revenue under this head of account could not be collected in 2013-14. Even though part of the same had been collected during April 2014, the collection of anticipated budget estimate under the head could not be achieved during the financial year 2013-14.</p>
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The Abkari policy for the year 2014-15 was not formulated by Government before March 2014, since the Model Code of Conduct for the General Elections 2014, was in force. Hence the 731 FL3 licences (Bar Hotels) which had to be renewed in March 2014 were not renewed before 31/03/2014, due to this delay in the formulation of Abkari Policy. This alone resulted in a short collection of Rs.168 Crores under the head during the financial year 2013-14. As per GO(Ms)No. 56/2014/TD dated 02/04/2014, Government had decided to renew the FL-3 licences of Bar Hotels, except the 418 non-standard hotels mentioned in the judgment dated 05/03/2014 of Hon'ble Supreme Court in CA No.s 3196-3198/2014, the collection could be effected in the financial year 2014-15 only. Moreover as per the policy of Government, no FL-3 licences were issued afresh in the financial year 2013-14, which would have been an additional source of revenue.

Since the budget estimate was prepared during 2012 itself, these unexpected events could not be anticipated in advance, and hence there arose a huge variation (almost 90%) between the budget estimate and actual collection, under the head of account 0039-00-105 Foreign Liquors and Spirits-99 Licence Fees, during the financial year 2013-14. Also this shortfall is more than 25% of the overall shortfall in the excise revenue during the year 2013 - 14, against the actual budget estimate.

0039-00-105 Foreign Liquors and Spirits-98 Rent of Independent Shops

Revenue received in head of account includes rent of FL-I shops and also the brand registration fees. The budget

estimate was prepared on the expectation of a regular increase in the number of shops as well as the possible hike in the licence fee. It was also expected an increase in the revenue by way of brand registration fee under the head of account. But as per the policy decision, the Government had decided not to issue fresh FL-1 licences in the State and the licence fee of the shops remained unchanged during the year 2013-14. Also the revenue under brand registration fee had not increased considerably.

As a result, there arose a short fall of revenue towards the head of account 0039-00-105 Foreign Liquors and Spirits-98 Rent of Independent Shops, during the financial year 2017-18 over the budget estimate, even though there were an increase in collection with respect to that in the previous year. This shortfall is about 12% of the overall shortfall in the excise revenue during the year 2013-14, against the actual budget estimate.

0039-00-105 Foreign Liquors and Spirits-96 Gallonage Fees

0039-00-103 Malt Liquors-98 Gallonage Fees

The sale of foreign liquor and beer throughout the State is vested with Kerala State Beverages Corporation. The vending fee on foreign liquor and beer is calculated on the basis of gross sale made during a financial year. Every year, a gallonage fee at such rate as fixed by the Government may prescribe from time to time which shall be paid by the FL-9 licensee (KSBC) on the quantity of IMFL sold by the licensee, as per rule 15 (A) of Foreign Liquor Rules.


As per Government letter No. 5514/A3/2013ITD dated

			<p>16/03/2013 of Taxes (A) Department, Government have directed the Managing Director, Kerala State Beverages Corporation to remit an amount of Rs.200 Crores before 31/03/2013. In accordance with the Government direction, Kerala State Beverages Corporation has remitted an amount of 200 Crores as advance payment of gallonage fee on 27/03/2013. Out of this 200 Crores paid in advance, 150 Crores was against vending fee, of foreign liquor and spirit and 50 Crores was against vending fee of beer.</p> <p>Usually the remittance of vending fee is made by the Kerala State Beverages Corporation during the month of April/May of the succeeding financial year. But instead of remitting the gallonage fee during May 2013 KSBC have remitted an advance amount of Rs.200 Crores in March 2013, and this resulted an increase in the revenue under the heads of gallonage fee, during the financial year 2012-13. as well as a short fall in the collection in the financial year 2013-14.</p> <p>This arrangement in the collection of gallonage fee, resulted in a short fall in collection of revenue during 2013-14, towards the heads of account 0039-00-105 Foreign Liquors and Spirits-96 Gallonage Fees & 0039-00-103 Malt Liquors-98 Gallonage Fees over the collection during the previous year, and a variation with the anticipated revenue in the budget estimate for the year 2013-14</p>			
2	1.2	Analysis of arrears of revenue	Head of revenue	Total Amount	Amount outstanding	Replies of Demand
				Outstanding as on 31.3. 2018	For more than 5 years as on 31.3. 2018	

			0039- State Excise	₹ 2,47,03,10,469	₹ 2,47,03,10,469	<p>An amount of ₹2,47,03,10,469 (Principal ₹60,85,45,803 Interest ₹1,86,17,64,666) is outstanding as Abkari Old Arrear as on 31/03/2018. An interest of 18% on principal amount is added to the total on each year. In order to collect the arrears Revenue recovery steps have already been initiated against the defaulters and their legal heirs. Excise department in co-ordination with revenue authorities are taking all possible steps to realize the arrears. Directions are given to all Deputy Excise Commissioners for vacating the stays issued by various courts against the Revenue Recovery Proceedings. Write off proposals were recommended to Govt. only after examining all the possibilities to recover from the defaulter or from their legal heirs. The defaulters filed cases against RR proceedings in various courts and collection of an amount of ₹52,18,47,453 involved in such cases are pending. In several cases Revenue Recovery Certificates were returned by the concerned District Collectors as the defaulters were reported as insolvent.</p>
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										The amount involved in such cases comes to ₹31,68,83,486. Amnesty scheme introduced by the Govt and extended from time to time helps a lot to realise the arrear amount. Amnesty collection during the period from 31/03/2015 to 31/03/2018 were ₹3,89,85,452
3	1.3	Arrears in assessments.	Not Applicable							
4	1.4	Evasion of tax detected by the department	No remarks							
5	1.5	Pendency of refund cases	Not Applicable							
6	1.6	Analysis of stay granted	<u>Abkari Old Arrear statement as on 31-03-2018</u>							
			Head of revenue	Total arrear Amount (in crores)	Stay by government	Stay by appellate Authorities	Total amount under stay (in crores)	(in crores) % of stay to Total Arrear		
			0039-State Excise	247.03	52.18	0	52.18	21.11		
7	1.7	Response of the Government/departments to Audit	First reply to all the LARs has been submitted in time. Out of 466 Paras in 213 LARs now only 70 Paras in 39 LARs are pending. In the Court cases, steps have already been taken to collect the amount on finalisation of the cases.							
8	1.8	Status of the mechanism for dealing with the	Not Applicable							

		issues raised in audit	
9	1.9	Action taken on the recommendations accepted by the Departments/Government	Not Applicable
10	1.10	Audit planning	Not Applicable
11	1.11	Results of audit	Not Applicable
12	1.12	Coverage of this Report	Not Applicable


ANIL KUMAR V. S
Joint Secretary
Taxes Department
Govt. Secretariat
Thiruvananthapuram

ACTION TAKEN NOTES ON C & AG'S REPORTS

		COMMERCIAL TAXES
	(a)	Department
	(b)	Subject/Title of the Review Paragraph
	(c)	Paragraph No.
	(d)	Report No. and Year
II	(a)	Date of receipt of the Draft Para / Review in the Department
	(b)	Date of Department's Reply
III		Gist of Paragraph/Review
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary

COMMERCIAL TAXES

Tax Administration

2.1

C & AG report for the year ended March 2014.

The Audit Para relates to the organizational setup of Commercial Taxes Department.

Yes

NA

Yes

NA

VI

REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	This Para discusses about the Organizational setup of Commercial Taxes Department and hence no remarks to offer against this para.
(b)	Recovery of overpayment pointed out by audit	NA
(c)	Recovery of under assessment, short levy or other dues	NA
(d)	Modification in the schemes and programmes including financing pattern	NA
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	NA


 R. Raja Gopal
 Additional Secretary
 Taxes Dept

ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Internal Audit
	(c)	Paragraph No.	2.2
	(d)	Report No. and Year	C & AG report for the year ended March 2014.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	The Audit Para relates to the working of Internal Audit Wing.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

(a)	Improvement in system and procedures, including internal controls	<p>The Internal Audit Wing has conducted 347 inspections and prepared audit reports containing 6790 observations involving short levy of 270.77 crores up to 31-3-2016 as listed below:-</p> <table border="1" data-bbox="687 427 1465 927"> <thead> <tr> <th>Year</th> <th>Inspection Report</th> <th>Audit Observations</th> <th>Amount involved</th> <th>Observations settled</th> </tr> </thead> <tbody> <tr> <td>2009-10</td> <td>12</td> <td>417</td> <td>4.52</td> <td>130</td> </tr> <tr> <td>2010-11</td> <td>46</td> <td>919</td> <td>3.3</td> <td>361</td> </tr> <tr> <td>2011-12</td> <td>32</td> <td>445</td> <td>27.38</td> <td>210</td> </tr> <tr> <td>2012-13</td> <td>56</td> <td>369</td> <td>14.88</td> <td>88</td> </tr> <tr> <td>2013-14</td> <td>60</td> <td>1333</td> <td>16.75</td> <td>75</td> </tr> <tr> <td>2014-15</td> <td>85</td> <td>1976</td> <td>34.92</td> <td>25</td> </tr> <tr> <td>2015-16</td> <td>56</td> <td>1331</td> <td>169.02</td> <td>306</td> </tr> <tr> <td>Total</td> <td>347</td> <td>6790</td> <td>270.77</td> <td>1195</td> </tr> </tbody> </table> <p>Out of the above, 2 inspection reports and 864 Audit; paras are finalized and collected Rs.3.18 crore by this time.</p> <p>There are only 3 Assistant Commissioners and 5 commercial Tax officers are available in the internal audit wing of the department. The Assistant Commissioners are mainly at-tending audit in the special circles and works contract offices. The Commercial Tax Officers are conducting audit in the ordinary circles. However the internal audit wing has conducted inspections in 56 units during the year 2015-2016.</p>	Year	Inspection Report	Audit Observations	Amount involved	Observations settled	2009-10	12	417	4.52	130	2010-11	46	919	3.3	361	2011-12	32	445	27.38	210	2012-13	56	369	14.88	88	2013-14	60	1333	16.75	75	2014-15	85	1976	34.92	25	2015-16	56	1331	169.02	306	Total	347	6790	270.77	1195
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(b)	Recovery of overpayment pointed out by audit	NA																																													

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


R. Raja Gopal
Additional Secretary
Taxes Dept

ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Results of Audit
	(c)	Paragraph No.	2.3
	(d)	Report No. and Year	C & AG report for the year ended March 2014.
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	During 2013-2014, audit detected underassessment of tax and other irregularities involving Rs.429.35 crore in 1882 cases and recommended for realization of the amount by the Department where the observations are sustainable
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

VI

REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	Observation of Audit relates to the period of 2013-14. As far as the C&AG report ended 31-3-2014 concerned, the short levy involved is Rs.429.35 crore in 1882 cases. With respect to the short levy pointed out by the Accountant General reports have been submitted. Action is being taken to collect the amount where the audit objections are accepted and assessments are completed/revised subsequently and created additional demand.
(b)	Recovery of overpayment pointed out by audit	NA
(c)	Recovery of under assessment, short levy or other dues	NA
(d)	Modification in the schemes and programmes including financing pattern	NA
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	NA


R. Raja Gopal
 Additional Secretary
 Taxes Dept

2.1 Tax Administration

Para No.	Gist of the Audit Para	Remarks
2.1	<p>Tax Administration Kerala General Sales Tax (KGST)/ Kerala Value Added Tax (KVAT) laws and rule made thereunder are administered at the Government level by the Secretary, Taxes. The Commercial Taxes Commissioner is the head of the Commercial Taxes Department who is assisted by Joint Commissioners, Deputy Commissioners, Assistant Commissioners and Commercial Tax Officers. The assessment, levy and collection of tax are done by Assistant Commissioners and Commercial Tax Officers.</p> <p>KGST is leviable on sale of Ganja and opium, foreign liquor and certain petroleum products. VAT is leviable on the intrastate sale of remaining commodities and Central Sales Tax (CST) on interstate sales.</p>	<p>This para discusses the organisational and tax administration set up of the Department and hence no remarks</p>

2.2 Internal Audit

Para No.	Gist of the Audit Para	Remarks
2.2	<p>Internal Audit The details on working of internal audit wing, though called for, have not been furnished by the Department.</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>

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.

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 of 154 units in 2013-14 relating so KVAT, KGST assessments and other records showed under-assessment of tax and other irregularities involving 429.35 crore in 1,882 cases which fall under the following categories given in Table - 2.1.</p> <p>During the course of the year, the Department accepted underassessment and other deficiencies involving 30.07 crore in 10 cases which were pointed out in audit during the earlier years. An amount of 12.03 crore was realised in 599 cases during the year 2013-14.</p>	Spread over succeeding paras.

Para No.	Gist of the case	Present position										
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Karakkattu Agencies 32120203072</td> </tr> <tr> <td>Year</td> <td>2010-11</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>61,60,59,566/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>3,48,44,329/-</td> </tr> <tr> <td>Penalty(Rs.)</td> <td>4,97,77,612/-</td> </tr> </table>	Dealer Name / TIN	Karakkattu Agencies 32120203072	Year	2010-11	Turnover escaped (Rs.)	61,60,59,566/-	Tax plus interest (Rs.)	3,48,44,329/-	Penalty(Rs.)	4,97,77,612/-	<p>SL.No.1 Karakkattu Agencies 32120203072(2010-2011) CTO, Special Circle, Kannur</p> <p>The Accountant General pointed out that on verification of the assessment records for the year 2010-11 of the above assessee, there was difference in purchases reported in annual return and audited statement in form 13 &13 A.</p> <p>The excess amount of purchases reflected in the annual return compared to form 13 &13A is as furnished below.</p> <p>6(2) purchase in the Books / P&L / Audited stt. - Rs. 27,56,48,727/-</p> <p>6(2) purchase in the annual return Rs. 54,11,13,918/-</p> <p>Over reported in the annual return by mistake Rs. 26,54,65,191/-</p> <p>Purchase from registered dealers in the Books / P&L / Audited stt. - Rs. 32,20,53,630/-</p> <p>Purchase from registered dealers in the annual return Rs. 66,74,37,658/-</p> <p>Over reported in the annual return by mistake Rs. 34,53,84,028/-</p> <p>Total over-reported purchase turnover in the annual return Rs. 61,08,49,219/-</p> <p>Turnover escaped in the AG's statement Rs. 61,60,59,566/-</p> <p>Difference Rs. 52,10,347/-</p> <p>Reason for difference The 'Turnover escaped' derived in the above statement of AG is based on simply deducting 'total sales turnover' from the 'total purchase turnover' reported in the annual return. The AG did not taken into account the increase / decrease in the stock-in-trade i.e. opening stock value (- / +) closing stock value, while deriving the 'Turnover escaped'. Hence there is a significant factual error crept in the deriving method adopted. Due to such error, reconciliation of the above difference of Rs. 52,10,347/- in this case is practically not feasible.</p> <p>Stock-in-trade of the assessee is as follows:-</p> <p>Opening stock value - Rs. 87,74,500/- Closing stock value - Rs. 2,09,12,550/-</p> <p>Stock in trade (Increase-(+)) - Rs. 1,21,38,050/-</p> <p>Verification revealed that the assessee has not availed excess input tax credit. Hence there is no revenue loss in this case.</p>
Dealer Name / TIN	Karakkattu Agencies 32120203072											
Year	2010-11											
Turnover escaped (Rs.)	61,60,59,566/-											
Tax plus interest (Rs.)	3,48,44,329/-											
Penalty(Rs.)	4,97,77,612/-											

Para No.	Gist of the case	Present position
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2.4(a) Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.

Dealer Name / TIN	Flash Traders 321202607 95
Year	2009-10
Turnover escaped (Rs.)	9,72,29,296 /-
Tax plus interest (Rs.)	59,70,657/-
Penalty (Rs.)	78,56,128/-

**SL.No. 2 Flash Traders
32120260795(2009-10)
CTO, Special Circle, Kannur**

The Accountant General pointed out that on verification of the assessment records for the year 2009-10 of the above assessee, there was difference in purchases reported in annual return and audited statement in form 13 & 13 A.

The total purchases reported in the annual return in Form No. 10, Audited statement in Form No. 13A, Trading Account and Books of Accounts furnished below.

Item	Purchased from	Under Section	Annual Return in Form No. 10	Audited Statement in Form No. 13	Trading Account	Books of Accounts
1	2	3	4	5	6	7
Raw Cashew Nut	Registered dealer	-	4,70,750.00	4,70,750.00	4,70,750.00	4,70,750.00
		-	5,25,29,250.00	-	-	-
	Farmer	6(2)	6,70,86,390.00	6,70,86,390.00	6,70,86,390.00	6,70,86,390.00
Sub Total			12,00,86,390.00	6,75,57,140.00	6,75,57,140.00	6,75,57,140.00
Areca nut	Registered dealer	-	52,61,550.00	2,55,350.00	2,55,350.00	2,55,350.00
		-	3,29,86,692.00	-	-	-
	Farmer	6(2)	4,22,10,047.00	4,22,10,047.00	4,22,10,047.00	4,22,10,047.00
Sub Total			8,04,58,289.00	4,24,65,397.00	4,24,65,397.00	4,24,65,397.00
Black Pepper	Registered dealer	-	46,21,050.00	-	-	-
		-	9,76,500.00	-	-	-
	Farmer	6(2)	1,62,79,719.00	1,62,79,718.00	1,62,79,718.00	1,62,79,718.00
Sub Total			2,18,77,269.00	1,62,79,718.00	1,62,79,718.00	1,62,79,718.00
Rubber Sheet	Registered dealer	-	-	-	-	-
		-	-	-	-	-
	Farmer	6(2)	3,74,212.00	3,74,212.00	3,74,212.00	3,74,212.00
Sub Total			3,74,212.00	3,74,212.00	3,74,212.00	3,74,212.00
Total			9,68,45,792.00	7,26,100.00	7,26,100.00	7,26,100.00
	6(2)		12,59,50,368.00	12,59,50,367.00	12,59,50,367.00	12,59,50,367.00
Grand Total			22,27,96,160.00	12,66,76,467.00	12,66,76,467.00	12,66,76,467.00
Difference			9,61,19,692.00			
	6(2)		NIL			

Reason for the above difference of Rs. 9,61,19,692/- :- Purchase turnover recorded in the Books of Accounts and reported in the Audited Statement and Trading accounts is correct. But certain error crept in purchase turnover reported in the annual return which caused

the above difference. Repeating of certain amount of purchase turnover in the annual return is the error. I.e. purchase of Rs. 9,61,19,692/- effected from Farmers (i.e. 6(2) purchase), included in the purchase turnover reported at Part 'A' of monthly returns / annual return, mistakenly repeated at part 'C' (i.e. purchases effected from registered person) in such returns. Mismatched figures under column 4 in comparison with corresponding figures against column 5/6/7 of above table shows such repeatedly reported purchase turnover. Such repeated purchase turnover is the mistake / error crept-in in the annual return. Details of such repeatedly reported purchase turnover shown below:-

Item	Purchased from	Under Section	Annual Return in Form No. 10	Audited Statement in Form No. 13	Trading Account	Books of Accounts
1	2	3	4	5	6	7
Raw Cashew Nut	Registered dealer	-	5,25,29,250			
Arecanut	Registered dealer	-	52,61,550	2,55,350	2,55,350	2,55,350
		-	3,29,86,692	-	-	-
Black Pepper	Registered dealer	-	46,21,050	-	-	-
		-	9,76,500	-	-	-
Total			9,63,75,042		2,55,350	
Less : Actual purchase from registered dealer (i.e. Arecanut Rs. 2,55,350)			9,61,19,692			

The above difference occurred due to above said mistake / error crept in the annual return in Form No. 10. But the assessee has reported the correct purchase turnover in the Audited Statement in Form No. 13A , trading Account and Books of Accounts. Excusing the editing error crept-in in the monthly returns / annual return, there is no differences in the purchase turnover. Hence, there is no escapement of purchase turnover and also there is no escapement of corresponding sales turnover. Therefore there is no short remittance of tax in this case as pointed out in the C&AG report.

Para No.	Gist of the case	Present position										
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1" data-bbox="279 1344 678 1691"> <tr> <td>Dealer Name / TIN</td> <td>Vishal Exports 32150336185</td> </tr> <tr> <td>Year</td> <td>2009-10</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>31,49,16,540/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>1,93,38,395/-</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>2,54,45,256/-</td> </tr> </table>	Dealer Name / TIN	Vishal Exports 32150336185	Year	2009-10	Turnover escaped (Rs.)	31,49,16,540/-	Tax plus interest (Rs.)	1,93,38,395/-	Penalty (Rs.)	2,54,45,256/-	<p>SL. No.3 Vishal Export <u>32150336185(2009-2010)</u> <u>CTO,Special Circle(Produce)Mattanchery</u></p> <p>The total purchase in the audit objection Rs.65,59,67,162 is made up of the following amounts.</p> <p>Rubber purchases as per Annual return :Rs.58,31,87,571.45 Rubber purchases from unregistered dealer: <u>Rs. 7,27,79,590.85</u> :Rs.65,59,67,162.30</p> <p>The Rubber purchases furnished in July 2009 return is in excess by Rs.23,16,58,230.60 due to mistake in adopting decimal figure.</p> <p>The purchase for July 2009 is Rs.2,57,39,803.40 which is available in the purchases statement already uploaded along with the return in the KVATIS. But while furnishing the turnover figure in Form 10 return for July, 2009 due to typographical error the purchase turnover was shown as Rs.25,73,98,034/- due to the omission of the decimal. The difference between the two figures being Rs.23,16,58,230.60, excess turnover of purchase shown in the return for July 2009. This was found only at the time of Audit by the Auditors and the Reconciliation statement reconciling the said turnover is furnished along with the Form 13 &13A filed along with the Manual Annual Return rectifying the above mistake. As the annual Return for 2009-10 which is automatically generated by the system from the monthly returns filed, the total purchases happened to be inflated in value by Rs.23,16,58,230.60.</p> <p>Similarly the purchases from unregistered dealers u/s 6(2) effected during the year 2009-10 is already included in the purchase of Rs.34,66,99,340.85 representing the total purchases as per accounts and also the purchase value shown in the annual return.</p> <p>Hence the actual purchase turnover of rubber effected during 2009-2010 works out as under: Total purchase as per audit objection : Rs.65,59,67,162.00</p>
Dealer Name / TIN	Vishal Exports 32150336185											
Year	2009-10											
Turnover escaped (Rs.)	31,49,16,540/-											
Tax plus interest (Rs.)	1,93,38,395/-											
Penalty (Rs.)	2,54,45,256/-											

Less:-

Excess purchase turnover furnished
in July 2009 due to mistake in
adopting decimal

:Rs. 23,16,58,230.00
:Rs. 42,43,08,932.00

Less:-

Purchase from unregistered dealer
U/s 6(2) already included in the
Purchase turnover furnished

:Rs. 7,27,79,591.00

Rubber purchase turnover including
rubber Cess value
:Rs. 35,15,29,341.00

Less:- Rubber Cess value included :Rs. 48,30,000.00

Actual purchase value as per 13 & 13A
and accounts.

:Rs. 34,66,99,341.00

There is no short accounting of any portion of purchase
turnover in this case. In view of the above, the audit objection
may be dropped.

Para No.	Gist of the case	Present position										
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1" data-bbox="279 1198 686 1590"> <tr> <td data-bbox="279 1198 470 1321">Dealer Name / TIN</td> <td data-bbox="470 1198 686 1321">Njavallil Latex Pvt. Ltd. 32150350585</td> </tr> <tr> <td data-bbox="279 1321 470 1366">Year</td> <td data-bbox="470 1321 686 1366">2009-10</td> </tr> <tr> <td data-bbox="279 1366 470 1444">Turnover escaped (Rs.)</td> <td data-bbox="470 1366 686 1444">46,72,351/-</td> </tr> <tr> <td data-bbox="279 1444 470 1534">Tax plus interest (Rs.)</td> <td data-bbox="470 1444 686 1534">2,86,920/-</td> </tr> <tr> <td data-bbox="279 1534 470 1590">Penalty</td> <td data-bbox="470 1534 686 1590">3,77,526/-</td> </tr> </table>	Dealer Name / TIN	Njavallil Latex Pvt. Ltd. 32150350585	Year	2009-10	Turnover escaped (Rs.)	46,72,351/-	Tax plus interest (Rs.)	2,86,920/-	Penalty	3,77,526/-	<p>SL.No.4. Njavallil Latex Pvt Ltd 32150350585 (2009-10) CTO, Aluva</p> <p>In the annual return in Form 10 for the year 2009-10 the assessee reported total purchase turnover of Rs.60,75,46,266/-. Whereas in the audited statement of accounts as per 13 &13A the total purchase turnover is Rs.60,17,93,890/-. There is a difference of Rs.57,52,376/- in the purchase turnover reported in Form 10 and in Form 13 & 13A filed for the year 2009-10.</p> <p>The difference is Rubber Cess turnover of Rs.57,29,258/- which is included in the return as per section 2 of the KVAT Act, 2003 in which it is clearly stated that Explanation VI- "The turnover in respect of rubber shall be deemed to include any Cess leviable under the Rubber Act, 1947 (Irrespective of whether the payment of Cess is till the rubber is consumed by the manufacturer of the rubber goods."</p> <p>The Cess amount is notionally included in the turnover but it does not reflect in the books of accounts. So the difference is the turnover of cess amount of Rs.57,29,258/- for which the assessee have paid IPT of Rs.2,29,170.40. The balance difference of Rs.23,118/- is emerged due to the clerical error in rounding of paisa into rupee while uploading the return and Form 13 &13A.</p>
Dealer Name / TIN	Njavallil Latex Pvt. Ltd. 32150350585											
Year	2009-10											
Turnover escaped (Rs.)	46,72,351/-											
Tax plus interest (Rs.)	2,86,920/-											
Penalty	3,77,526/-											

Para No.	Gist of the case	Present position										
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1" data-bbox="284 1240 711 1621"> <tr> <td data-bbox="284 1240 469 1357">Dealer Name / TIN</td> <td data-bbox="469 1240 711 1357">Evergrowing Iron & Finvest Ltd. 32070247424</td> </tr> <tr> <td data-bbox="284 1357 469 1406">Year</td> <td data-bbox="469 1357 711 1406">2011-12</td> </tr> <tr> <td data-bbox="284 1406 469 1491">Turnover escaped (Rs.)</td> <td data-bbox="469 1406 711 1491">32,17,18,162/-</td> </tr> <tr> <td data-bbox="284 1491 469 1576">Tax plus interest (Rs.)</td> <td data-bbox="469 1491 711 1576">1,66,36,690/-</td> </tr> <tr> <td data-bbox="284 1576 469 1621">Penalty</td> <td data-bbox="469 1576 711 1621">2,59,94,828/-</td> </tr> </table>	Dealer Name / TIN	Evergrowing Iron & Finvest Ltd. 32070247424	Year	2011-12	Turnover escaped (Rs.)	32,17,18,162/-	Tax plus interest (Rs.)	1,66,36,690/-	Penalty	2,59,94,828/-	<p>Sl. No.5 <u>Evergrowing Iron & Finvest Ltd</u> <u>32070247424 (2011-12)</u> <u>CTO, Special Circle 1, Ernakulam</u></p> <p>The defect pointed out by the AG is that there is a difference in purchase turnover between the audit figure and the returns figure leading to the estimation of corresponding sales turnover by the Accountant General.</p> <p>Interstate purchase as per the return is Rs. 29,17,97,205/- whereas the same is Rs. 2,28,41,806/- as per Form 13 & 13A resulting difference of Rs. 26,89,55,399/-.</p> <p>At the time of assessment, to the query of the difference in question, the assessee has produced stock transfer invoice in respect of goods received on consignment basis and found the consignment goods receipt value is Rs. 6,33,78,399/-. It was found that at the time of filing monthly return the assessee has included this amount under the head of interstate purchase and reported the interstate purchase turnover at Rs. 29,17,97,205/- while the actual interstate value is Rs. 22,84,18,806/-. The mistake in the audit report with respect to the interstate purchase is also clarified which disclosed it as Rs. 2,28,41,806/- instead of Rs. 22,84,18,806/-. The interstate purchases effected during 2011-12 amounts to Rs. 22,84,18,806/- which has been shown in the statement attached to the audit report 13 and 13A and also form part of the said audit report. The assessee has also produced the details of interstate purchases and the verification of the entire invoices revealed that their reply against the mismatching of interstate purchases is found genuine and it was accepted.</p> <p>The difference is due to inclusion of receipt of goods from the principal place outside Kerala for sales on consignment basis amounting to Rs. 6,33,78,399/- along with the interstate purchases of Rs. 22,84,18,806/- effected to by the assessee during 2011-12 which was shown in the audit report totalling to Rs. 29,17,97,205/-</p> <p>That being so the defect pointed out by the AG is not sustainable and the assessment was completed accordingly.</p>
Dealer Name / TIN	Evergrowing Iron & Finvest Ltd. 32070247424											
Year	2011-12											
Turnover escaped (Rs.)	32,17,18,162/-											
Tax plus interest (Rs.)	1,66,36,690/-											
Penalty	2,59,94,828/-											

Para No.	Gist of the case	Present position										
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1" data-bbox="256 1240 667 1653"> <tr> <td data-bbox="256 1240 435 1391">Dealer Name / TIN</td> <td data-bbox="440 1240 667 1391">Watts Electronics (Pvt) Ltd 32071694602</td> </tr> <tr> <td data-bbox="256 1397 435 1435">Year</td> <td data-bbox="440 1397 667 1435">2010-11</td> </tr> <tr> <td data-bbox="256 1442 435 1523">Turnover escaped (Rs.)</td> <td data-bbox="440 1442 667 1523">1,70,64,769/-</td> </tr> <tr> <td data-bbox="256 1529 435 1610">Tax plus interest (Rs.)</td> <td data-bbox="440 1529 667 1610">9,65,183/-</td> </tr> <tr> <td data-bbox="256 1617 435 1653">Penalty</td> <td data-bbox="440 1617 667 1653">13,78,834/-</td> </tr> </table>	Dealer Name / TIN	Watts Electronics (Pvt) Ltd 32071694602	Year	2010-11	Turnover escaped (Rs.)	1,70,64,769/-	Tax plus interest (Rs.)	9,65,183/-	Penalty	13,78,834/-	<p>SL.No.6 Watts Electronics(Pvt) Ltd 32071694602(2010-2011) CTO, Special Circle 1, Ernakulam</p> <p>M/s. Watts Electronics (P) Ltd is a manufacturer of electrical resistors and CFL Lamp as well as trader of resistors and diode. The assessee effects local purchase, inter-state purchase and imported purchase.</p> <p>On verification of annual return along with audited balance sheet of the dealer for the year 2010-2011, a difference of Rs.4,28,81,950.17 was noticed. As per annual return, the purchase shown amounts to Rs.12,79,33,604/-. But purchase shown in audited report is only Rs.11,50,51,653.83. This difference occurred due to the following reasons.</p> <ol style="list-style-type: none"> 1. The excise duty paid for the purchase amounting to Rs.1,14,44,941.64 is excluded from the purchase turnover shown in the balance sheet. 2. Spare purchase amounting to Rs.6,69,006.80 excluded from purchase turnover shown in the balance sheet and is shown in the head manufacturing and other expenses (Repairs & maintenance). <p>During the year the dealer purchased machinery amounting to Rs.8,27,749.80 which is shown in the balance sheet under the head plant and machinery in part VI of form 13A.</p> <p>In the VAT return, sales is inclusive of excise duty whereas in the balance sheet sales is showing excluding excise duty. The difference in purchase is not affecting the sales turnover</p>
Dealer Name / TIN	Watts Electronics (Pvt) Ltd 32071694602											
Year	2010-11											
Turnover escaped (Rs.)	1,70,64,769/-											
Tax plus interest (Rs.)	9,65,183/-											
Penalty	13,78,834/-											

Para No.	Gist of the case	Present position										
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>FCI OEN Connectors Ltd. 32070418694</td> </tr> <tr> <td>Year</td> <td>2009-10</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>35,71,02,968/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>4,22,27,539/-</td> </tr> <tr> <td>Penalty</td> <td>5,55,62,550/-</td> </tr> </table>	Dealer Name / TIN	FCI OEN Connectors Ltd. 32070418694	Year	2009-10	Turnover escaped (Rs.)	35,71,02,968/-	Tax plus interest (Rs.)	4,22,27,539/-	Penalty	5,55,62,550/-	<p>SL.No.7 FCI OEN Connectors Ltd 32070418694 (2009-10) CTO, Special Circle III, Ernakulam</p> <p>On verification of annual return filed by the dealer, total purchases effected was Rs.1,62,03,99,915/-. But as per the audited statement of accounts the total purchase is shown as Rs.1,34,73,57,185/- with a difference of Rs.27,30,42,730/-.</p> <p>The differential amount represents purchase of fixed assets which is not included in the statutory audit report for gross profit calculation. The dealer has uploaded all the purchases in KVATIS and declared it in the returns filed. The dealer has not availed ITC on local purchase. The differential amount is included in the schedule of fixed assets.</p> <p>Assessment completed for the balance escaped turnover as per order dated 13.03.2019. The dealer opted amnesty scheme 2019 and remitted the amount of Rs. 1,27,155/- vide e challan No. KL002312995201920M dated 01.06.2019.</p>
Dealer Name / TIN	FCI OEN Connectors Ltd. 32070418694											
Year	2009-10											
Turnover escaped (Rs.)	35,71,02,968/-											
Tax plus interest (Rs.)	4,22,27,539/-											
Penalty	5,55,62,550/-											

Para No.	Gist of the case	Present position		
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p>	<p>SL.No.8 Hindustan Organic Chemicals Ltd. Phenol Unit, Ambalamugal P.O., 32070430405 (2011-2012) CTO, Special Circle III, Ernakulam</p> <p>The audit objection in this case is short levy of tax due to short accounting of Purchases. (i.e. Corresponding sales turnover arrived-Rs.5,43,15,23,863/- . Total sales conceded in the return -Rs.5,13,48,18,441/- and the turnover escaped -Rs.29,67,05,422/-). On verification of annual return along with audit report in form 13 &13A filed by the dealer, the sales turnover determined is Rs.6,32,04,77,415/-, total turnover conceded Rs.5,09,32,34,116/- and escaped turnover comes to Rs.1,22,72,43,299/-. This difference amount is to be assessed at 4%.</p> <p>Considering the audit objection, the assessment in respect of the above dealer for the year 2011-12 is completed on 5-12-2015 creating an additional demand of Rs.7,11,80,111/- (Tax due- Rs.4,90,89,732/- & Interest due-Rs.2,20,90,379/-). The assessee filed a rectification application u/s. 66 of the KVAT Act which was rejected as the dealer cannot prove any mistake in the order apparent on the face of records in the petition. RRC proceed 28/2012 dated 04.02.2016.</p> <p>Meanwhile the assessee filed WP(C) No. 11082/2016 and the Hon'ble HC directed to pass order on the rectification within one month from the date of receipt of the copy of the judgment after hearing the petitioner. But as per the order dated 05.05.2016 the application for rectification is rejected on the ground of the order C7/60916/CT dated 05.05.2016 of Joint Commissioner. The RR authority was again reminded for realization of the arrear.</p> <p>Subsequent to appeal, assessment was modified vide order dated 12.08.2020. Audit objection was not sustainable as the dealer filed reconciled statement</p>		
	<table border="1"> <tr> <td data-bbox="280 1104 483 1283">Dealer Name / TIN</td> <td data-bbox="483 1104 790 1283">Hindustan Organic Chemicals Limited, Phenol Unit, Ambalamugal P.O 32070430405</td> </tr> </table>	Dealer Name / TIN	Hindustan Organic Chemicals Limited, Phenol Unit, Ambalamugal P.O 32070430405	
Dealer Name / TIN	Hindustan Organic Chemicals Limited, Phenol Unit, Ambalamugal P.O 32070430405			
	<table border="1"> <tr> <td data-bbox="280 1283 483 1339">Year</td> <td data-bbox="483 1283 790 1339">2011-12</td> </tr> </table>	Year	2011-12	
Year	2011-12			
	<table border="1"> <tr> <td data-bbox="280 1339 483 1417">Turnover escaped (Rs.)</td> <td data-bbox="483 1339 790 1417">29,67,05,422/-</td> </tr> </table>	Turnover escaped (Rs.)	29,67,05,422/-	
Turnover escaped (Rs.)	29,67,05,422/-			
	<table border="1"> <tr> <td data-bbox="280 1417 483 1496">Tax plus interest (Rs.)</td> <td data-bbox="483 1417 790 1496">1,53,43,231/-</td> </tr> </table>	Tax plus interest (Rs.)	1,53,43,231/-	
Tax plus interest (Rs.)	1,53,43,231/-			
	<table border="1"> <tr> <td data-bbox="280 1496 483 1552">Penalty</td> <td data-bbox="483 1496 790 1552">2,39,73,798/-</td> </tr> </table>	Penalty	2,39,73,798/-	
Penalty	2,39,73,798/-			

		while modification, showing how assessment escaped turnover happened. As per the statement, excise duty was included in Form 10 but excluded from Form 13A. Assessment completed as per order dated 12.08.2020. Demand of Rs. 2,24,219/- was paid vide challan No. KL008010615202021M dated 20.08.2020.
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Para No.	Gist of the case	Present position										
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p>	<p>Sl.No.9 Trinethra Super Retail Private Ltd. 32070482504 (2011-12) CTO, Special Circle III, Ernakulam</p> <p>The original assessment was completed vide order No.32070482504/11-12 dated 29-03-2017 creating an additional demand of Rs.1,83,31,493/- (Tax & Cess Rs.1,15,29,239/- and interest Rs.68,02,254). Considering the audit objection, assessment was completed vide order dated 18.03.2019. The above order were modified as per the directions in appellate order No. KVATA 671/2021 dated 09.02.2022 of the Joint Commissioner(Appeals) II, Ernakulam and the directions of the Hon'ble High Court of Kerala order No. WP(C) No.13923 /2019 dated 29.05.2019. Differential turnover assessed in the assessment order was due to the inadvertent omission of the Auditor which was proved as non taxable items hence deleted from the assessment. As per modified order dated 19.03.2022 demand was reduced to Rs.10,44,237/-. The dealer opted amnesty scheme 2022 and remitted the amount of Rs.626543.00 vide e challan No.KL011307764202223E dated 15.07.2022.</p>										
	<table border="1"> <tr> <td data-bbox="274 1025 552 1173">Dealer Name / TIN</td> <td data-bbox="558 1025 817 1173">Trinethra Super Retail Private Limited 32070482504</td> </tr> <tr> <td data-bbox="274 1178 552 1223">Year</td> <td data-bbox="558 1178 817 1223">2011-12</td> </tr> <tr> <td data-bbox="274 1227 552 1308">Turnover escaped (Rs.)</td> <td data-bbox="558 1227 817 1308">21,09,66,850/-</td> </tr> <tr> <td data-bbox="274 1312 552 1393">Tax plus interest (Rs.)</td> <td data-bbox="558 1312 817 1393">1,09,09,518/-</td> </tr> <tr> <td data-bbox="274 1397 552 1442">Penalty</td> <td data-bbox="558 1397 817 1442">1,70,46,122/-</td> </tr> </table>	Dealer Name / TIN	Trinethra Super Retail Private Limited 32070482504	Year	2011-12	Turnover escaped (Rs.)	21,09,66,850/-	Tax plus interest (Rs.)	1,09,09,518/-	Penalty	1,70,46,122/-	
Dealer Name / TIN	Trinethra Super Retail Private Limited 32070482504											
Year	2011-12											
Turnover escaped (Rs.)	21,09,66,850/-											
Tax plus interest (Rs.)	1,09,09,518/-											
Penalty	1,70,46,122/-											

Para No.	Gist of the case	Present position																												
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	finished goods			
	Balance		1,57,91,46,823.	1,57,91,46,82
	purchase		90	4.69
	turnover			
	<p>From the above, it is evident that the difference in purchase turnover is only on account of tax on rubber cess turnover and purchase turnover. There is no unaccounted purchase as alleged by AG. As there is no unaccounted purchase, sales turnover arrived has no relevance and the objection raised is not sustainable.</p>			

Para No.	Gist of the case	Present position										
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1" data-bbox="284 1153 753 1568"> <thead> <tr> <th data-bbox="284 1153 523 1299">Dealer Name / TIN</th> <th data-bbox="523 1153 753 1299">Kancor Ingredients Limited 32150238895</th> </tr> </thead> <tbody> <tr> <td data-bbox="284 1299 523 1355">Year</td> <td data-bbox="523 1299 753 1355">2011-12</td> </tr> <tr> <td data-bbox="284 1355 523 1433">Turnover escaped (Rs.)</td> <td data-bbox="523 1355 753 1433">10,40,12,083/-</td> </tr> <tr> <td data-bbox="284 1433 523 1512">Tax plus interest (Rs.)</td> <td data-bbox="523 1433 753 1512">53,78,673/-</td> </tr> <tr> <td data-bbox="284 1512 523 1568">Penalty</td> <td data-bbox="523 1512 753 1568">84,04,176/-</td> </tr> </tbody> </table>	Dealer Name / TIN	Kancor Ingredients Limited 32150238895	Year	2011-12	Turnover escaped (Rs.)	10,40,12,083/-	Tax plus interest (Rs.)	53,78,673/-	Penalty	84,04,176/-	<p>SL.No. 12 <u>Kancor Ingredients Limited</u> <u>32150238895 (2011-12)</u> <u>CTO, Special Circle, Mattanchery</u></p> <p>The audit objection in this case is that purchase as per annual return is Rs.1,83,25,86,932/- whereas Purchase as per audited statement is Rs.1,72,72,17,389/-. Thus there is a difference of Rs.10,99,74,138/-. The assessing authority on verification it is found that the reason for the difference is that only the purchase of raw materials and finished goods are included in Form 13 & 13A. Whereas the purchase of items not related to raw materials and semi finished goods are also included in the annual return. The difference is the purchase of items not related to raw materials and semi finished goods.</p> <p>M/s. Kancore Ingredients Ltd., Angamaly is a dealer engaged in the manufacture and export of spice oleoresin, spice oils, essential oil, natural colour and botanicals.</p> <p>On verification of records it is seen that assessee has claimed IPT on Engineering stores & consumables, process chemical, packing materials, Laboratory equipments and machinery parts, raw materials and semi finished goods.</p> <p>Section 2(xxiii) of the KVAT Act where as "Input tax mean the tax paid or payable under act by a registered dealer on the purchase of goods in the course of business and includes the tax paid on the purchase of materials for the research and development in relation to any goods".</p> <p>From reading Section 2(xxiii) with Section 11(i) it is clear that section only stipulates that the purchase should be in course of business and dealer liable to tax under section6(1) of the KVAT is eligible for input tax credit. It is also appears that assessee has satisfied the following conditions.</p> <ul style="list-style-type: none"> * Purchase from registered dealer * Purchase not from a presumptive tax payer. * purchase not from a compounded dealer. * Tax shall be paid on purchase of goods
Dealer Name / TIN	Kancor Ingredients Limited 32150238895											
Year	2011-12											
Turnover escaped (Rs.)	10,40,12,083/-											
Tax plus interest (Rs.)	53,78,673/-											
Penalty	84,04,176/-											

		<p>* purchase is liable to pay tax U/s. 6(1). 532</p> <p>* purchase should be in the course of business</p> <p>* the goods purchased not fall within the exclusion stated in section II(5).</p> <p>From the above provisions it appears that since the assessee is engaged in the manufacture and export of spice oleoresin, spice oils, essential oils natural colour and botanicals the goods purchased other than raw materials and semi finished goods such as laboratory and scientific equipments Engineering stores & consumables, process chemical, packing materials is eligible for ITC since they are procured in the course of business and for research and development.</p>
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Para No.	Gist of the case	Present position										
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		<p>11(i) it is clear that section only stipulates that the purchase should be in course of business and dealer liable to tax under section 6(1) of the KVAT is eligible for input tax credit. It is also appears that assessee has satisfied the following conditions.</p> <ul style="list-style-type: none">* Purchase from registered dealer* Purchase not from a presumptive tax payer.* purchase not from a compounded dealer.* Tax shall be paid on purchase of goods* purchase is liable to pay tax U/s. 6(1).* purchase should be in the course of business* the goods purchased not fall within the exclusion stated in section II(5). <p>From the above provisions it appears that since the assessee is engaged in the manufacture and export of spice oleoresin, spice oils, essential oils natural colour and botanicals the goods purchased other than raw materials and semi finished goods such as laboratory and scientific equipments Engineering stores & consumables, process chemical, packing materials is eligible for ITC since they are procured in the course of business and for research and development.</p>
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Total	:Rs.16,90,62,645.48																																					
<u>As per Form No.10</u>																																						
Local Purchase	:Rs. 2,98,39,347.99																																					
Inter-state purchase	:Rs.13,81,80,326.49																																					
Empty Tin 6(2)	:Rs. 10,42,971.00																																					
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Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1" data-bbox="279 1254 675 1668"> <tr> <td data-bbox="279 1254 478 1406">Dealer Name / TIN</td> <td data-bbox="478 1254 675 1406">Anna Aluminium Co.(P) Ltd 32150223134</td> </tr> <tr> <td data-bbox="279 1406 478 1456">Year</td> <td data-bbox="478 1406 675 1456">2011-12</td> </tr> <tr> <td data-bbox="279 1456 478 1534">Turnover escaped (Rs.)</td> <td data-bbox="478 1456 675 1534">1,54,79,049/-</td> </tr> <tr> <td data-bbox="279 1534 478 1624">Tax plus interest (Rs.)</td> <td data-bbox="478 1534 675 1624">8,00,453/-</td> </tr> <tr> <td data-bbox="279 1624 478 1668">Penalty</td> <td data-bbox="478 1624 675 1668">12,50,708/-</td> </tr> </table>	Dealer Name / TIN	Anna Aluminium Co.(P) Ltd 32150223134	Year	2011-12	Turnover escaped (Rs.)	1,54,79,049/-	Tax plus interest (Rs.)	8,00,453/-	Penalty	12,50,708/-	<p>Sl.No.16 Anna Aluminium Co.(P)Ltd 32150223134(2011-12) CTO, Special Circle, Mattachery</p> <p>The defect pointed out by the Accountant General under the head "Short payment of tax due to short accounting of purchases effected" was that the assessee M/s. Anna Aluminium Company (P) Limited effected purchase to the tune of Rs.60,20,90,184/- where as that accounted was at Rs.58,45,72,503/- creating a difference in purchase turnover of Rs.1,75,17,681/-. On verification of Books of accounts, returns filed and Audit report of the assessee, the following facts were found:-</p> <p><u>Purchase Effected by the dealer as pointed out by the Accountant General (As per Form 10 Annual Return)</u></p> <table data-bbox="691 891 1396 1131"> <tr> <td>Local purchase eligible for ITC</td> <td>: Rs.20,22,99,478.00</td> </tr> <tr> <td>Interstate purchase</td> <td>: Rs.33,39,80,269.00</td> </tr> <tr> <td>Import purchase</td> <td>: Rs. 62,49,835.00</td> </tr> <tr> <td>Local purchase for export</td> <td>: Rs. 6,78,777.00</td> </tr> <tr> <td>Interstate Stock Transfer (IN)</td> <td>: Rs. 2,51,38,060.00</td> </tr> <tr> <td>6(2) Purchase</td> <td>: <u>Rs. 3,37,43,765.00</u></td> </tr> <tr> <td>Total</td> <td>: Rs.60,20,90,184.00</td> </tr> </table> <p><u>Purchase as per Form 13, 13A</u></p> <table data-bbox="691 1198 1436 1467"> <tr> <td>Local purchase from registered dealers</td> <td>: Rs.19,97,64,865.00</td> </tr> <tr> <td>Local purchase Under Sec. 6(2)</td> <td>: Rs. 3,37,43,764.00</td> </tr> <tr> <td>Interstate Purchase</td> <td>: Rs.28,83,77,715.00</td> </tr> <tr> <td>Interstate Stock (IN)</td> <td>: Rs. 6,42,920.00</td> </tr> <tr> <td>Finished goods purchase</td> <td>: Rs. 3,75,48,099.00</td> </tr> <tr> <td>Interstate Stock (IN) of finished goods</td> <td>: <u>Rs. 2,44,95,132.00</u></td> </tr> <tr> <td>Total</td> <td>: Rs.58,45,72,503.00</td> </tr> <tr> <td>Difference in purchase turnover</td> <td>: Rs. 1,75,17,681/-</td> </tr> </table> <p><u>The items not included in the purchase turnover in 13A</u></p> <table data-bbox="691 1534 1396 1803"> <tr> <td>Cen VAT paid on purchase</td> <td>: Rs. 46,57,029.00</td> </tr> <tr> <td>Capital goods purchase</td> <td>: Rs. 72,45,335.00</td> </tr> <tr> <td>Purchase return shown in annual return (Purchase shown in 13A is the figure excluding purchase return</td> <td>: Rs. 61,23,914.00</td> </tr> <tr> <td>Less: Cen VAT reversed on respect of melting loss of raw materials</td> <td>: <u>Rs. 1,09,734.00</u></td> </tr> <tr> <td>Balance</td> <td>: Rs. 1,79,16,544.00</td> </tr> </table> <p>=====</p> <p>So there is a difference of Rs. 3,98,863/- only between the purchase reported in annual return and Form 13A. This is because of the fact that the Cen VAT paid figure consists of the figure related to their Coimbatore Branch.</p> <p>Hence no loss of revenue involved in this case as pointed out by the Accountant General.</p>	Local purchase eligible for ITC	: Rs.20,22,99,478.00	Interstate purchase	: Rs.33,39,80,269.00	Import purchase	: Rs. 62,49,835.00	Local purchase for export	: Rs. 6,78,777.00	Interstate Stock Transfer (IN)	: Rs. 2,51,38,060.00	6(2) Purchase	: <u>Rs. 3,37,43,765.00</u>	Total	: Rs.60,20,90,184.00	Local purchase from registered dealers	: Rs.19,97,64,865.00	Local purchase Under Sec. 6(2)	: Rs. 3,37,43,764.00	Interstate Purchase	: Rs.28,83,77,715.00	Interstate Stock (IN)	: Rs. 6,42,920.00	Finished goods purchase	: Rs. 3,75,48,099.00	Interstate Stock (IN) of finished goods	: <u>Rs. 2,44,95,132.00</u>	Total	: Rs.58,45,72,503.00	Difference in purchase turnover	: Rs. 1,75,17,681/-	Cen VAT paid on purchase	: Rs. 46,57,029.00	Capital goods purchase	: Rs. 72,45,335.00	Purchase return shown in annual return (Purchase shown in 13A is the figure excluding purchase return	: Rs. 61,23,914.00	Less: Cen VAT reversed on respect of melting loss of raw materials	: <u>Rs. 1,09,734.00</u>	Balance	: Rs. 1,79,16,544.00
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Dealer Name / TIN	M.P.R. Mercantile Syndicate 32081470975											
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Penalty (Rs.)	1,57,77,612/-											

		<p>verification of closing stock inventory as on 31st March 2014, it is revealed that the consignment purchase of goods of Deccan Cement 38908 bags and Penna Cement 14521 bags (total 53429 bags) are found in the inventory. Hence there was no loss of revenue to the state. Therefore, the objection is not sustainable. Thus on verification of the books of accounts and statement of closing stock there is no short levy of tax due to short accounting of purchase in this case. In the circumstances, the audit objection may be dropped.</p>
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Para No.	Gist of the case	Present position										
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1" data-bbox="280 1122 759 1494"> <tr> <td data-bbox="280 1122 520 1234">Dealer Name / TIN</td> <td data-bbox="520 1122 759 1234">M.P.R. Mercantile Syndicate 32081470975</td> </tr> <tr> <td data-bbox="280 1234 520 1279">Year</td> <td data-bbox="520 1234 759 1279">2011-12</td> </tr> <tr> <td data-bbox="280 1279 520 1368">Turnover escaped (Rs.)</td> <td data-bbox="520 1279 759 1368">7,30,24,141/-</td> </tr> <tr> <td data-bbox="280 1368 520 1447">Tax plus interest (Rs.)</td> <td data-bbox="520 1368 759 1447">1,18,00,701/-</td> </tr> <tr> <td data-bbox="280 1447 520 1494">Penalty</td> <td data-bbox="520 1447 759 1494">1,84,38,596/-</td> </tr> </table>	Dealer Name / TIN	M.P.R. Mercantile Syndicate 32081470975	Year	2011-12	Turnover escaped (Rs.)	7,30,24,141/-	Tax plus interest (Rs.)	1,18,00,701/-	Penalty	1,84,38,596/-	<p><u>Sl.No.18 M.P.R. Mercantile Syndicate 32081470975(2011-2012) CTO, Special Circle, Thrissur</u></p> <p>The original assessment for the year 2011-12 was completed as per order No.32081470975/2011-12 dated 27.03.2019. Against this order, the assessee filed appeal before the Deputy Commissioner (Appeals), Thrissur. The appellate authority as per order No. KVAT 324/2019 dated 15.05.2019 directed to modify the original assessment order, since the difference in purchase is related to consignment sales, which is already tax suffered and the assessee has no tax liability on this portion. Accordingly, the original assessment was modified as per order No.32081470975/2011-12 (Modified) dated 26.08.2019 with Nil demand. In the circumstances, the audit objection is not sustainable as per modified order and therefore requested that the same may be dropped.</p>
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Sl. No.	Particulars	Amount (Rs.)																									
A	Unaccounted purchase as per order	3,60,84,797.00																									
B	Less: Amounts duly accounted in the books of accounts but appeared /not appeared in form 13A																										
a	Central Excise paid on RM/Stores and spares purchased - accounted under CENVAT credit A/c - Not considered for form 13A	1,54,66,327.00																									
b	Freight incurred on Asbestos Cement products sales and interstate/intrastate	84,86,359.00																									

		stock transfers		
	c	Packing goods purchased for dispatch	8,85,695.00	
	d	Purchases for staff welfare	5,21,296.00	
	e	Diesel Purchase	83,47,482.00	
	f	Purchase of capital goods capitalised in balance sheet	23,72,054.00	
		Total		3,60,79,213.00
		Difference (A-B)		5,584.00

After considering this statement, there is no difference in purchases considering the volume of transactions involved. Hence, the audit objection is not sustainable. Therefore modified the assessment order vide order No. 32080252004/2011-12 dt 08.11.2022 with demand of tax Rs.886/- and Cess Rs.9/- along with interest Rs.1,145/- totaling to Rs.2,040/-. The assessee remitted the amount as per Chalan No. KL021177222202223M dt.16.11.2022.

Para No.	Gist of the case	Present position																						
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Parekkadens Enterprises</td> </tr> <tr> <td>Year</td> <td>2010-11</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>9,61,88,584/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>54,40,426/-</td> </tr> <tr> <td>Penalty</td> <td>77,72,033/-</td> </tr> </table>	Dealer Name / TIN	Parekkadens Enterprises	Year	2010-11	Turnover escaped (Rs.)	9,61,88,584/-	Tax plus interest (Rs.)	54,40,426/-	Penalty	77,72,033/-	<p><u>SL.No.20 Parekkadens Enterprises</u> <u>32080579784 (2010-2011)</u> <u>CTO, Special Circle, Thrissur</u></p> <p>On verification of monthly return, annual return and audited statements, Form 13 & 13A the following defects are noticed. As per annual return filed for the year 2010-2011, local purchase eligible for Input Tax Credit is Rs.30,71,19,466.28 but in Form 13A local purchase from VAT dealers is Rs.20,99,59,565/--. Hence there is a purchase suppression of Rs.9,71,59,901/-.</p> <p>The assessing authority verified the objection with the books of accounts and on verification of the same revealed the following facts.</p> <table border="1"> <thead> <tr> <th></th> <th>As per annual return (in Rs.)</th> <th>As per Books and Form 13 & 13A (in Rs.)</th> <th>Difference (in Rs.)</th> </tr> </thead> <tbody> <tr> <td>Local purchase</td> <td>30,71,19,466.28</td> <td>20,99,59,565.50</td> <td>9,71,59,900.78</td> </tr> <tr> <td>6(2) purchase</td> <td>9,54,58,380.28</td> <td>9,54,58,380.28</td> <td>NIL</td> </tr> </tbody> </table> <p>Out of the above difference of Rs.9,71,59,900.78, Rs.9,54,58,380.28 is nothing but 6(2) purchases which is already included in Annual / Monthly returns in the column Local purchase 6(2) under Part A(1) Sales/Disposals (With Output tax liability) as well as wrongly included in Local purchase Turnover under Part-C Turnover on purchase of goods, due to inadvertent mistake.</p> <p>The balance difference of Rs.17,01,520.50 is the inclusion of Rubber Cess Turnover @ Rs.1.50 per Kg in form 10. This amount is included in Monthly Returns for generating input tax credit for Rubber Cess Turnover @ Rs.1.50 per kg. which is included in the purchase bills of Rubber from Rubber dealers.</p> <p>Hence the difference was due to mistake which occurred by adding 6(2) purchase to the purchase turnover and inclusion of Rubber cess turnover in Form 10.</p>		As per annual return (in Rs.)	As per Books and Form 13 & 13A (in Rs.)	Difference (in Rs.)	Local purchase	30,71,19,466.28	20,99,59,565.50	9,71,59,900.78	6(2) purchase	9,54,58,380.28	9,54,58,380.28	NIL
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Para No.	Gist of the case	Present position																
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>EICL Limited 32010125905</td> </tr> <tr> <td>Year</td> <td>2011-12</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>23,64,70,025/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>1,22,28,338/-</td> </tr> <tr> <td>Penalty</td> <td>1,91,06,778/-</td> </tr> </table>	Dealer Name / TIN	EICL Limited 32010125905	Year	2011-12	Turnover escaped (Rs.)	23,64,70,025/-	Tax plus interest (Rs.)	1,22,28,338/-	Penalty	1,91,06,778/-	<p>Sl. No.21 <u>EICL Limited</u> <u>32010125905(2011-2012)</u> <u>CTO,III Circle, Thiruvananthapuram</u></p> <p>The Accountant General has reported that M/s English Indian Clays , Kochuveli, Thiruvananthapuram , during the year 2011-12 has not conceded all purchases in audit report in 13/13A even though they had mentioned the purchases and sales in annual accounts such as Trading profit and loss account and annual return.</p> <p>Subsequent to the query, a notice under section 25(1) of the Kerala value added tax Act was issued to the dealer in which a purchase difference of Rs.19,00,63,452.00 was mentioned proposing to assess the purchase variation adding Gross profit @ 10% for the purchase differences ascertained from annual return and 13/13A. The variation ascertained is detailed below.</p> <table border="1"> <thead> <tr> <th>Purchase as per return</th> <th>Purchase as per 13/13A</th> <th>Purchase difference ascertained</th> </tr> </thead> <tbody> <tr> <td>82,55,12,684/-</td> <td>63,54,49,232/-</td> <td>19,00,63,452/-</td> </tr> </tbody> </table> <p>In response to the notice regarding the difference in value of purchases as per the annual return and as per form 13/13A, the dealer stated that <i>total purchase value as mentioned in the annual return ie Rs 77,49,23,087/- (in the notice it is mentioned as Rs 82,55,12,684/- which is inclusive of Tax) is the total purchases effected by us such as Raw Material, Consumables, fuel, packing materials, purchase for repairs, fixed assets, office stationery, spares for machinery etc. But in Form 13/13A, the purchases which are directly go to the manufacturing process like, raw materials, chemicals, fuel and packing materials are included. The aggregate purchase value of these materials are Rs 63,54,49, 232/- . The difference between the basic value as per Annual return and the Form 13A is Rs 13,94,73,855/- . Since in the notice, tax amount of Rs 5,05,89,597/- is also included in the annual return figure, the difference between annual return and Form 13A is shown as Rs.19,00,63,452/-, which may please be corrected to Rs 13,94,73,855/- which is purely our purchases of fixed assets, office stationery and spares of machinery etc. All the purchases are effected by the unit in Trivandrum as this unit is the sole</i></p>	Purchase as per return	Purchase as per 13/13A	Purchase difference ascertained	82,55,12,684/-	63,54,49,232/-	19,00,63,452/-
Dealer Name / TIN	EICL Limited 32010125905																	
Year	2011-12																	
Turnover escaped (Rs.)	23,64,70,025/-																	
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Purchase as per return	Purchase as per 13/13A	Purchase difference ascertained																
82,55,12,684/-	63,54,49,232/-	19,00,63,452/-																

manufacturer of clay and the other units such as Delhi Tamil Nadu & Karnataka units are only meant for sale purpose of the commodity clay manufactured at Trivandrum unit.

The assessing authority examined the reply in detail with regard to the purchase suppression between annual return and 13/13A. In the reply the dealer stated that the purchase difference between 13/13A and audit report is because of the non conceding of purchase of fixed assets, purchase of machinery parts etc. in 13/13A as they are not part of the trading, whereas all the purchases were accounted in annual return. In order to verify the veracity of the contention of the dealer, the assessing authority had examined the purchases mentioned in annual return. On verification it is ascertained the argument raised by the dealer is genuine. In the case of purchase turnover of Rs.82,55,12,684.00 as detailed in 25(1) notice issued, the contention raised by the dealer that to derive the purchase suppression of Rs.190063452.00, the purchase conceded in annual return is taken as Rs. 825512684.00 instead of the actual purchase value of Rs.774923087.00. Hence there is difference in purchase value to the tune of Rs.5,05,89,597.00 which will directly affect the purchase suppression in the notice. Hence the actual purchase suppression is limited to Rs.13,94,73,855.00 instead of Rs. 19,00,634,52.00 which is explained as their purchases not meant for trading purposes. The assessing authority had examined the annual return of the dealer and ascertained that they had conceded purchases to the tune of Rs.13,94,73,855.00 which is not the purchases for trade purposes which is detailed below.

Purchase details covered in annual return 2011-12 not in the course of furtherance of business for which ITC was not availed

Commodity	Amount	Tax	Total	ITC availed
Bearings	8,90,219.00	17,686.00	9,07,905.00	0
Bricks of Clay(machinery parts)	1,50,36,430.00	3,00,706.00	1,53,37,136.00	0
Bull Dozer	51,96,078.00	1,03,922.00	53,00,000.00	0
cables	70,185.00	1,404.00	71,589.00	0
Computer peripherals	16,787.00	336.00	17,123.00	0
Electrical goods	24,88,155.00	48,689.00	25,36,844.00	0
Electricalgoods(12.5)	32,859.00	658.00	33,517.00	0

Electronic goods	5,46,251.00	10,798.00	5,57,049.00	0
Furniture	3,06,196.00	5,980.00	3,12,176.00	0
Hardware	98,92,615.00	1,90,052.00	1,00,82,667.00	0
Lubricants for sewing machine	25,046.00	501.00	25,547.00	0
Hardware(12.5)	38,23,685.00	73,976.00	38,97,661.00	0
Ink for printing and writing	22,083.00	442.00	22,525.00	0
Iron and steel for civil works	14,07,674.00	28,120.00	14,35,794.00	0
Laboratory and scientific equipments	5,199.00	104.00	5,303.00	0
Machinery and parts(4%)	5,05,79,233.00	10,08,998.00	5,15,88,231.00	0
Machinery and parts(12.5%)	51,44,649.00	1,00,869.00	52,45,518.00	0
Paints ,polish, enamel and varnish	28,000.00	560.00	28,560.00	0
pipes	2,16,473.00	4,330.00	2,20,803.00	0
Pump set and parts	1,92,800.00	3,856.00	1,96,656.00	0
Sewing Machine	43,200.00	864.00	44,064.00	0
Stationery goods	83,705.00	1,674.00	85,379.00	0
Tools	50,707.00	2,131.00	52,838.00	0
Weighing machine	23,44,154.00	46,883.00	23,91,037.00	0
Iron and steel(Import)	7,01,693.00	0	7,01,693.00	0
Machinery parts	39,76,852.00	0	39,76,852.00	0
Local purchase not eligible for ITC and not in the course of furtherance of business	3,63,52,927.00	29,74,640.00	3,93,27,567.00	0
Total purchase turnover not in furtherance of business	13,94,73,855.00			

Comparison

Total purchase turnover excluding tax as per annual return =

Rs.77,49,23,087.00

Purchase not in the course of business

as per annual return detailed in table above= Rs.13,94,73,855.00

Purchase meant for business as per annual return =

Rs.63,54,49,232.00

Purchase as per audit report =

Rs.63,54,49,232.00

Difference

= **Rs.Nil**

While computing the differential amount of Rs.19,00,63,452/- with Gross profit of 46% conceded in return the sales turnover will come to Rs.27,74,92,639.92. Such a computation derives a sales suppression turnover of Rs.27.74 crores which is higher than that ascertained by the Accountant General to the tune of Rs.23.64 crores, which is now nullified as detailed above.

From this work out, it is clear that there is no purchase

		difference in the course of business and hence the objection relating to purchase suppression may be dropped as it is not sustainable.
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Para No.	Gist of the case	Present position
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p>	<p><u>SL.No.22 Duro Flex Pvt Ltd.</u> <u>32040231985(2011-2012)</u> <u>CTO, Special Circle, Alappuzha</u></p> <p>Assessment was completed on 02.05.2019 including the defect pointed out by the AG, creating an additional demand tax & cess Rs.1,61,69,792/- and interest Rs.1,37,44,323/-. The assessment order is under challenge vide Writ Appeal filed by the dealer (WA855/2019 connected with WA 747/2019). Interim stay order issued vide order dated 22.3.2019 The assessee paid Rs.32,33,958/- vide chalan No.KL00316418201920M dtd.17.05.2019 being 20% of the tax amount disputed. Hearing posted to 23.11.22 by the HC.</p>
Dealer Name / TIN	Duro Flex Pvt Ltd 32040231985	
Year	2011-12	
Turnover escaped (Rs.)	1,82,90,086/-	
Tax plus interest (Rs.)	12,02,476/-	
Penalty	18,78,868/-	

Para No.	Gist of the case	Present position																			
2.4(a)	<p>Audit cross verified the details of purchase, sales etc., conceded by the assesseees in their annual return with the figures in Form 13A appended to the annual accounts and found that 23 assesseees in 11 Commercial Tax Offices (CTO) did not include the entire purchase turnover in their annual accounts and hence the sales turnover accounted was not that of the sales corresponding to entire purchase. This resulted in escape of turnover from assessment and short remittance of tax, cess and interest of Rs.22.31 crore. Maximum penalty leviable worked out to Rs.32.37 crore.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Plymica Ltd 32110279492</td> </tr> <tr> <td>Year</td> <td>2011-12</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>6,36,12,739/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>1,05,96,437/-</td> </tr> <tr> <td>Penalty</td> <td>1,65,56,932/-</td> </tr> </table>	Dealer Name / TIN	Plymica Ltd 32110279492	Year	2011-12	Turnover escaped (Rs.)	6,36,12,739/-	Tax plus interest (Rs.)	1,05,96,437/-	Penalty	1,65,56,932/-	<p>Sl.No.23 Plymica Ltd 32110279492(2011-2012) CTO, Special Circle 1, Kozhikode</p> <p>The defect pointed out was that the purchase reported in the annual return and 13 & 13A filed for the year varies due to which there is short levy of tax.</p> <p>As per the annual return filed by the dealer total purchases amounts to Rs.16,12,74,523.63. But as per 13 & 13A total amount of purchase is Rs.10,29,02,103/-. Thus there is a difference of Rs.5,83,72,999.60.</p> <table border="1"> <thead> <tr> <th></th> <th>As per Annual return</th> <th>As per 13 & 13A</th> </tr> </thead> <tbody> <tr> <td>Local purchase</td> <td>13,46,69,664.63</td> <td>7,62,97,244.10</td> </tr> <tr> <td>Inter-state Purchase</td> <td>2,66,04,859.00</td> <td>2,66,04,859.00</td> </tr> </tbody> </table> <p>The assessing authority verified the objection and found that the difference arose due to clerical mistake while filing monthly return for August 2011.</p> <p>As per the Original VAT returns for the month of August 2011, total local purchases was reported as Rs.6,51,71,292.76.</p> <p>4% Rs. 3,12,663.00 12.5% Rs.6,48,58,629.76</p> <p>The dealer has wrongly reported 12.5% local purchase as Rs.6,48,58,629.76 instead of Rs.64,85,629.76 there by arising a difference of Rs.5,83,73,000. The dealer filed revised returns on 04-12-2012 rectifying the above defect and the annual returns was submitted on 26-4-2013. Since the annual return is automatically generated return, the rectifications made in the monthly return made before its filing must be reflected in the annual return. But in this case the changes have not been incorporated into the annual return. Hence this is a technical defect that has crept into the same. As such there is no short reporting of purchase.</p>		As per Annual return	As per 13 & 13A	Local purchase	13,46,69,664.63	7,62,97,244.10	Inter-state Purchase	2,66,04,859.00	2,66,04,859.00
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2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases of 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and the same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1"> <thead> <tr> <th>Dealer Name / TIN</th> <td>Soubhagya Tile House 32120239465</td> </tr> <tr> <th>Year</th> <td>2009-10</td> </tr> <tr> <th>Turnover escaped (Rs.)</th> <td>8,81,648/-</td> </tr> <tr> <th>Tax plus interest (Rs.)</th> <td>1,59,743/-</td> </tr> <tr> <th>Penalty (Rs)</th> <td>2,10,188/-</td> </tr> </thead></table>	Dealer Name / TIN	Soubhagya Tile House 32120239465	Year	2009-10	Turnover escaped (Rs.)	8,81,648/-	Tax plus interest (Rs.)	1,59,743/-	Penalty (Rs)	2,10,188/-	<p>Sl.No.1 <u>Soubhagya Tile House</u> <u>32120239465(2009-2010)</u> <u>CTO, Special Circle, Kannur</u></p> <p>The defect pointed out by the Accountant General is as follows:-</p> <p>Total sales accounted :Rs.3,39,80,303/- Total turnover Returned :Rs.3,90,98,655/- Turnover escaped :Rs. 8,81,648/-</p> <p>The defect is non sustainable due to the following reasons:-</p> <p>On verification of Annual Return along with Form 13A, it is seen that though the assessee has reported gross sale of Rs.3,99,80,303/- in Form 13A, this is inclusive of sales return of Rs.11,88,971/-. The net sales as per Form 13A and Annual return is same which can be explained as follows:-</p> <table border="1"> <thead> <tr> <th></th> <th>Sales turnover as per annual return (in Rs.)</th> <th>Sales turnover as per Form 13A (in Rs.)</th> </tr> </thead> <tbody> <tr> <td>Sales turnover as per Part A</td> <td>3,90,98,655.00</td> <td>3,99,80,303.00</td> </tr> <tr> <td>Less Sales return</td> <td>7,323.00</td> <td>11,88,971.00</td> </tr> <tr> <td>Less sales turnover of used vehicle</td> <td>3,00,000.00</td> <td>Not shown in trading results but as sale of fixed asset</td> </tr> <tr> <td>Net Sales</td> <td>3,87,91,332.00</td> <td>3,87,91,332.00</td> </tr> </tbody> </table>		Sales turnover as per annual return (in Rs.)	Sales turnover as per Form 13A (in Rs.)	Sales turnover as per Part A	3,90,98,655.00	3,99,80,303.00	Less Sales return	7,323.00	11,88,971.00	Less sales turnover of used vehicle	3,00,000.00	Not shown in trading results but as sale of fixed asset	Net Sales	3,87,91,332.00	3,87,91,332.00
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2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1"> <thead> <tr> <th>Dealer Name / TIN</th> <td>PPM Chicken Agency Puthanpurayil 32120260222</td> </tr> <tr> <th>Year</th> <td>2009-10</td> </tr> <tr> <th>Turnover escaped (Rs.)</th> <td>23,22,000/-</td> </tr> <tr> <th>Tax plus interest (Rs.)</th> <td>4,11,593/-</td> </tr> <tr> <th>Penalty (Rs.)</th> <td>5,41,570/-</td> </tr> </thead></table>	Dealer Name / TIN	PPM Chicken Agency Puthanpurayil 32120260222	Year	2009-10	Turnover escaped (Rs.)	23,22,000/-	Tax plus interest (Rs.)	4,11,593/-	Penalty (Rs.)	5,41,570/-	<p>Sl.No.2 PPM Chicken Agency, Puthanpurayil 32120260222(2009-10) CTO, Special Circle, Kannur</p> <p>The defect pointed out by the Accountant General is as follows:-</p> <p>Total sales accounted :Rs.5,59,03,756/- Total turnover Returned :Rs.5,35,81,756/- Turnover escaped :Rs. 23,22,000/-</p> <p>Defect pointed out is based on the return filed through KVATIS. As per crime files prepared by the Intelligence Squad, the dealer had revised his return for the month of March 2010 and annual return (2009-10). But mistakenly the changes were not reflected in the annual return (KVATIS). Dealer filed Annual return in manual form 10. The turnover reported in the revised return for the month of March 2010 is Rs. 33,62,900/- and turnover as per revised annual return is Rs. 5,59,03,756/-. Tax on the differential turnover of Rs. 23,22,000/- was paid on 26.07.2010 Rs. 2,93,160/- (2,90,250 + Cess 2,910) challan No. 326/ 26.07.2010 (As per Chitta register page no.87 for the year 2010-11&11-12). Details of turnover as per monthly return is annexed below.</p> <p><u>Sales turnover for the year 2009-10 Month wise</u></p> <table> <tr> <td>April 2009</td> <td>Rs. 91,77,776.00</td> </tr> <tr> <td>May 2009</td> <td>Rs. 67,38,590.00</td> </tr> <tr> <td>June 2009</td> <td>Rs. 34,99,980.00</td> </tr> <tr> <td>July 2009</td> <td>Rs. 44,89,200.00</td> </tr> <tr> <td>August</td> <td>Rs. 65,85,010.00</td> </tr> <tr> <td>September</td> <td>Rs. 63,38,900.00</td> </tr> <tr> <td>October</td> <td>Rs. 19,46,010.00</td> </tr> </table>	April 2009	Rs. 91,77,776.00	May 2009	Rs. 67,38,590.00	June 2009	Rs. 34,99,980.00	July 2009	Rs. 44,89,200.00	August	Rs. 65,85,010.00	September	Rs. 63,38,900.00	October	Rs. 19,46,010.00
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November	Rs. 64,82,670.00
December 2009	Rs. 24,08,400.00
January 2010	Rs. 32,79,520.00
February 2010	Rs. 15,94,720.00
March 2010 (revised)	Rs. 33,62,900.00
Total	Rs. 5,59,03,756.00

RETURN REVISION FOR THE MONTH OF MARCH WAS NOT REFLECTED IN ANNUAL RETURN

Turnover in March return filed in 20.04.2010 Rs.10,40,900.00

Turnover in revised March return filed in 21.07.2011 Rs. 33,62,900.00

Difference Rs. 23,22,000.00

Turnover as per audit statement Rs.5,59,03,756.00

Turnover as per annual return Rs. 5,35,81,758.00

Difference Rs. 23,22,000.00

On verification it is found that the turnover shown in the Audit statement is same as reported in the revised return. The dealer had paid entire tax liability on the basis of revised return.

From the above facts it is clear that there is no short reporting of sales turnover and the defect may kindly be dropped.

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="323 1086 874 1444"> <tr> <td data-bbox="323 1086 603 1211">Dealer Name / TIN</td> <td data-bbox="603 1086 874 1211">Arafa Store, Cherattiyadan 32120441414</td> </tr> <tr> <td data-bbox="323 1211 603 1261">Year</td> <td data-bbox="603 1211 874 1261">2009-10</td> </tr> <tr> <td data-bbox="323 1261 603 1350">Turnover escaped (Rs.)</td> <td data-bbox="603 1261 874 1350">10,21,525/-</td> </tr> <tr> <td data-bbox="323 1350 603 1400">Tax plus interest (Rs.)</td> <td data-bbox="603 1350 874 1400">1,82,408/-</td> </tr> <tr> <td data-bbox="323 1400 603 1444">Penalty (Rs.)</td> <td data-bbox="603 1400 874 1444">2,40,010/-</td> </tr> </table>	Dealer Name / TIN	Arafa Store, Cherattiyadan 32120441414	Year	2009-10	Turnover escaped (Rs.)	10,21,525/-	Tax plus interest (Rs.)	1,82,408/-	Penalty (Rs.)	2,40,010/-	<p><u>Sl.No.3 Arafa Store, Cherattiyadan</u> <u>32120441414(2009-10)</u> <u>CTO, Thaliparamba</u></p> <p>The defect pointed out by the Accountant General is as follows:-</p> <p>Total sales accounted :Rs.6,55,83,489/- Total turnover Returned :Rs.6,45,61,964/- Turnover escaped :Rs. 10,21,525/-</p> <p>The assessment U/s 25(A) in respect of the dealer for the year 2009-10 was completed demanding Tax Rs.165862/- and Interest Rs.114445/- on 09-12-2015. Aggrieved by the above order, the dealer filed appeal before Deputy Commissioner (Appeals), Kozhikode. The appellate authority stayed the collection of the demand subject to the condition that the appellant shall pay 30% of the demand and furnish adequate security for the remaining balance in SP 207/2016 in VATA 63/16 dated 15-06-2016. The dealer remitted Rs.84092/- (30%) vide chalan No.122 dated 18-06-2016. and filed security for the balance amount.</p> <p>The assessee has opted Amnesty scheme 2017 to settle the arrears withdrawing the appeal before the Deputy Commissioner(Appeals)-II, CT, Kozhikode and remitted the entire tax arrear Rs.1,65,862/- and penalty Rs.76,614/- (30% of Rs.2,55,381/-).</p> <p>The payment details are given below: Challan No. 122 dtd 18.06.2016 - Rs. 84,092/- ChallanNo.KL004684599201718M dtd 01.08.2017 - Rs. 41,000/- Challan No. KL007669187201718M dtd 09.11.2017 - Rs. 40,770/- (Total tax paid – Rs. 1,65,862/-) Challan No.348 dtd 25.09.2016 - Rs. 51,076/- Challan No.338 dtd.24.11.2016 - Rs.25,538/- (Total Penalty paid – Rs. 76,614/-)</p>
Dealer Name / TIN	Arafa Store, Cherattiyadan 32120441414											
Year	2009-10											
Turnover escaped (Rs.)	10,21,525/-											
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Para No.	Gist of the case	Present position										
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Dealer Name / TIN	Klassik Traders											
Year	2010-11											
Turnover escaped (Rs.)	8,82,496/-											
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Dealer Name / TIN	New Pradeep Enterprises 32122299892											
Year	2010-11											
Turnover escaped (Rs.)	14,36,926.00											
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<table border="1"> <tr> <td data-bbox="272 898 616 1010">Dealer Name / TIN</td> <td data-bbox="620 898 959 1010">Shankara Infrastructure Materials Limited 32070298792</td> </tr> <tr> <td data-bbox="272 1016 616 1061">Year</td> <td data-bbox="620 1016 959 1061">2009-10</td> </tr> <tr> <td data-bbox="272 1068 616 1113">Turnover escaped (Rs.)</td> <td data-bbox="620 1068 959 1113">21,03,20,676/-</td> </tr> <tr> <td data-bbox="272 1120 616 1164">Tax plus interest (Rs.)</td> <td data-bbox="620 1120 959 1164">1,29,15,372/-</td> </tr> <tr> <td data-bbox="272 1171 616 1216">Penalty (Rs.)</td> <td data-bbox="620 1171 959 1216">1,69,93,911/-</td> </tr> </table>	Dealer Name / TIN	Shankara Infrastructure Materials Limited 32070298792	Year	2009-10	Turnover escaped (Rs.)	21,03,20,676/-	Tax plus interest (Rs.)	1,29,15,372/-	Penalty (Rs.)	1,69,93,911/-		
Dealer Name / TIN	Shankara Infrastructure Materials Limited 32070298792											
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Turnover escaped (Rs.)	21,03,20,676/-											
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		<p>and divisions in Ernakulam and Alappuzha District using self made delivery challan and departmental delivery notes are found correct, hence accepted. In the above circumstances the audit objection is not sustainable.</p>
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Para No.	Gist of the case	Present position
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p><u>Sl.No.9 Asian Paints Limited</u> <u>32070289814(2010-11)</u> <u>CTO, Special Circle 1, Ernakulam</u></p> <p>Considering the audit objection the VAT assessment was completed as per this office proceedings No. 32070289814/2010-11 dated 27-08-2012 creating an additional demand of Rs.33,588/- (VAT) and Rs.5,710/- (Interest).</p> <p>As per the CST order for the year stock transfer to Rs. 84,68,232/- is proved out of Rs. 1,49,88,170/- and the balance is assessed to tax creating demand Rs. 9,64,004/- tax and interest Rs. 1,63,880/-.</p>
Dealer Name / TIN	Asian Paints Limited 32070289814	
Year	2010-11	
Turnover escaped (Rs.)	1,46,89,602/-	
Tax plus interest (Rs.)	25,96,387/-	
Penalty (Rs.)	37,09,125/-	

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="268 1155 823 1541"> <tr> <td data-bbox="268 1155 536 1272">Dealer Name / TIN</td> <td data-bbox="536 1155 823 1272">A S K Rathnasamy Nadar 32071659412</td> </tr> <tr> <td data-bbox="268 1272 536 1323">Year</td> <td data-bbox="536 1272 823 1323">2010-11</td> </tr> <tr> <td data-bbox="268 1323 536 1406">Turnover escaped (Rs.)</td> <td data-bbox="536 1323 823 1406">18,99,593/-</td> </tr> <tr> <td data-bbox="268 1406 536 1489">Tax plus interest (Rs.)</td> <td data-bbox="536 1406 823 1489">2,81,986/-</td> </tr> <tr> <td data-bbox="268 1489 536 1541">Penalty (Rs.)</td> <td data-bbox="536 1489 823 1541">4,02,836/-</td> </tr> </table>	Dealer Name / TIN	A S K Rathnasamy Nadar 32071659412	Year	2010-11	Turnover escaped (Rs.)	18,99,593/-	Tax plus interest (Rs.)	2,81,986/-	Penalty (Rs.)	4,02,836/-	<p><u>Sl.No.10 A S K Rathnaswamy Nadar 32071659412(2010-11) CTO, special Circle 1, Ernakulam</u></p> <p>Considering the audit objection the assessment has been completed as per this office proceedings No. 32071659412/2010-11 dated 4-3-2016 creating an additional demand of Rs.7,77,544/- (VAT) with interest Rs.3,88,772/-. The assessee has filed appeal against this order before the Deputy Commissioner(Appeals) Ernakulam. The Deputy commissioner (Appeals), Ernakulam has modified the order as per the Appellate Order No. KVATA 1713/2016 dated 4-06-2016. As per the said order assessment was modified vide order dated 30-06-2016 and the demand decreased to Rs.5,29,606/-. As per the above order the assessee remitted Rs.89,153/- vide cheque No.000700 dated 20-08-2016 and Rs.89,153/- vide cheque No.000759 dated 21-09-2016. The assessee has filed appeal against this modified order before the Deputy Commissioner(A), Ernakulam. The appellate authority directed the assessing authority to modify the assessment. As per Order No. KVATA 3128/16 dated 09.01.2018, the assessing authority modified the assessment vide order dated 15.03.2018 that the audit objection is sustainable.</p>
Dealer Name / TIN	A S K Rathnasamy Nadar 32071659412											
Year	2010-11											
Turnover escaped (Rs.)	18,99,593/-											
Tax plus interest (Rs.)	2,81,986/-											
Penalty (Rs.)	4,02,836/-											

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="263 1120 790 1534"> <tr> <td>Dealer Name / TIN</td> <td>WIPRO GE Healthcare Private Limited 32070319705</td> </tr> <tr> <td>Year</td> <td>2009-10</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>61,76,678/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>4,05,815/-</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>5,33,967/-</td> </tr> </table>	Dealer Name / TIN	WIPRO GE Healthcare Private Limited 32070319705	Year	2009-10	Turnover escaped (Rs.)	61,76,678/-	Tax plus interest (Rs.)	4,05,815/-	Penalty (Rs.)	5,33,967/-	<p>Sl.No.11 WIPRO GE Healthcare Private Limited 32070319705 (2009-10) CTO, Special Circle II, Ernakulam</p> <p>Assessment for the year 2009-10 was completed vide order No.32070319705/2009-10 dated 31-08-2015 by assessing the escaped sales turnover as well as other irregularities noticed. The assessee has shown Sales Turnover Rs.17,29,65,192/- in annual return and Rs.17,29,95,192/- in Form 13A. The difference of Rs.30,000/- is proposed and assessed. The interstate stock transfer (Out) is conceded for Rs.20,86,04,835/- in Annual return and Rs.21,47,51,513/- in Form 13A. The difference is Rs.61,46,678/-. The total of these two differences assessed in assessment order dated 31.08.2015 with Tax demand of Rs.14,06,126/- and interest Rs.9,13,982/- The additional demand created according to the above order is given as follows:-</p> <p>Tax due :Rs.14,06,126.00 Interest :Rs. 9,13,982.00 :Rs.23,20,108.00</p> <p>On receipt of the order the dealer preferred appeal before the Deputy Commissioner (Appeals), Ernakulam and remitted Rs.6,96,032/- vide cheque no.392212 dated 10-12-2015.</p> <p>The original assessment for the year 2009-10 dated 31.08.2015 was modified vide order No.32070319705/2009-10 dated 22.02.2021 as per the direction in the appellate order KVATA 2021/15 dated 20.12.2017. As per the modified order new demand is Tax- Rs.11,23,729/- and interest Rs.7,76,053/-. The assessee has settled the arrear through Amnesty scheme by remitting 40% of the tax amount.</p>
Dealer Name / TIN	WIPRO GE Healthcare Private Limited 32070319705											
Year	2009-10											
Turnover escaped (Rs.)	61,76,678/-											
Tax plus interest (Rs.)	4,05,815/-											
Penalty (Rs.)	5,33,967/-											

Para No.	Gist of the case	Present position
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.12 ULTRATECH Cement Limited 32070363884 (2009-10) CTO, Special Circle II, Ernakulam.</p> <p>Audit objection pointed out in this case is that the dealer M/s Ultratech Cement Limited has disclosed sales turnover for the year 2009-10 is Rs.220,33,84,318/- only whereas the turnover as per accounts is Rs.220,70,44,714/-.</p> <p>The assessee has filed reconciliation statement along with 13 &13A filed for the year 2009-10. As per reconciliation statement total tax payable is Rs.27,80,12,510/- and the dealer has paid Rs.27,75,85,760/- along with the returns. Out of the balance payable amount of Rs.4,26,750/- an amount of Rs.4,15,742/- is adjusted from the excess amount as per the assessment order No.23040883/04-05 dated 23-03-2009 on completion of the assessment for the year 2004-05.</p> <p>Balance amount of Rs.11,008/- has been remitted by the dealer vide online transaction No.CK07405238 dated 5-3-2011. In the above circumstances there is no short levy in this case.</p>
Dealer Name / TIN	ULTRATECH Cement Limited 32070363884	
Year	2009-10	
Turnover escaped (Rs.)	36,60,396/-	
Tax plus interest (Rs.)	7,02,430/-	
Penalty (Rs.)	9,24,250/-	

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="264 1025 879 1305"> <thead> <tr> <th data-bbox="264 1025 571 1111">Dealer Name / TIN</th> <th data-bbox="571 1025 879 1111">Falcon Tyres Ltd 32070344725</th> </tr> </thead> <tbody> <tr> <td data-bbox="264 1111 571 1160">Year</td> <td data-bbox="571 1111 879 1160">2010-11</td> </tr> <tr> <td data-bbox="264 1160 571 1209">Turnover escaped (Rs.)</td> <td data-bbox="571 1160 879 1209">20,69,62,328/-</td> </tr> <tr> <td data-bbox="264 1209 571 1258">Tax plus interest (Rs.)</td> <td data-bbox="571 1209 879 1258">3,65,80,592/-</td> </tr> <tr> <td data-bbox="264 1258 571 1305">Penalty (Rs.)</td> <td data-bbox="571 1258 879 1305">5,22,57,988/-</td> </tr> </tbody> </table>	Dealer Name / TIN	Falcon Tyres Ltd 32070344725	Year	2010-11	Turnover escaped (Rs.)	20,69,62,328/-	Tax plus interest (Rs.)	3,65,80,592/-	Penalty (Rs.)	5,22,57,988/-	<p>SL.No.13 Falcon Tyres Ltd 32070344725 (2010-11) CTO, Special Circle II, Ernakulam</p> <p>The dealer Falcon Tyres Limited filed annual return for the year 2010-11 conceding the sales turnover of Rs.2,20,33,84,318/-; whereas the turnover disclosed as per accounts of the dealer is Rs.2,20,70,44,714/-. Audit objection raised in this case is the escaped turnover and consequent short levy.</p> <p>Based on the audit objection, notice U/s 25(1) of the KVAT Act 2003 was issued to the dealer and assessment has been completed as per Order No.32070344725/10-11 dated 23-5-2017. Additional demand created in this case is as shown below:-</p> <p>Tax due :Rs.2,61,28,994/- Interest due :Rs.1,93,35,456/- Total :Rs.4,54,64,450/-</p> <p>RRC for Rs.4,54,64,450/- has been forwarded to Kanayannur Taluk for revenue recovery proceedings vide RR No.2018/15043/07 dated 19.11.2018.</p>
Dealer Name / TIN	Falcon Tyres Ltd 32070344725											
Year	2010-11											
Turnover escaped (Rs.)	20,69,62,328/-											
Tax plus interest (Rs.)	3,65,80,592/-											
Penalty (Rs.)	5,22,57,988/-											

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="248 1048 903 1337"> <tr> <td data-bbox="248 1048 555 1126">Dealer Name / TIN</td> <td data-bbox="555 1048 903 1126">Nitta Gelatin India Limited 32070425422</td> </tr> <tr> <td data-bbox="248 1126 555 1182">Year</td> <td data-bbox="555 1126 903 1182">2009-10</td> </tr> <tr> <td data-bbox="248 1182 555 1238">Turnover escaped (Rs.)</td> <td data-bbox="555 1182 903 1238">32,51,51,470/-</td> </tr> <tr> <td data-bbox="248 1238 555 1294">Tax plus interest (Rs.)</td> <td data-bbox="555 1238 903 1294">62,85,580/-</td> </tr> <tr> <td data-bbox="248 1294 555 1337">Penalty (Rs.)</td> <td data-bbox="555 1294 903 1337">82,70,501/-</td> </tr> </table>	Dealer Name / TIN	Nitta Gelatin India Limited 32070425422	Year	2009-10	Turnover escaped (Rs.)	32,51,51,470/-	Tax plus interest (Rs.)	62,85,580/-	Penalty (Rs.)	82,70,501/-	<p>Sl.No.14 Nitta Gelatin India Limited 32070425422 (2009-10) CTO,Special Circle III, Ernakulam</p> <p>On verification of the audited reports in 13 &13A with annual return for the year 2009-10, it is revealed that as per audited statement of accounts in 13 &13A, the sales turnover include the turnover of the branch out side the state i,e, Bamni, Uttar Pradesh. The sales turnover of Bamni branch is Rs.32,51,51,474/-. This is the reason for difference between 13 &13A and annual return. The same difference is pointed out in the C &AG report. Hence there is no short levy in this case.</p>
Dealer Name / TIN	Nitta Gelatin India Limited 32070425422											
Year	2009-10											
Turnover escaped (Rs.)	32,51,51,470/-											
Tax plus interest (Rs.)	62,85,580/-											
Penalty (Rs.)	82,70,501/-											

Para No.	Gist of the case	Present position
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.15 Nippon Motor Corporation Private Ltd. 32070463402 (2009-10) CTO, Special Circle III, Ernakulam</p> <p>The objection is that there is a difference in turnover between audit report in Form No.13 &13A and annual return to the tune of Rs.1,72,96,805/-.</p> <p>Verified the same and found that the objection raised by the Accountant General is not sustainable.</p> <p>During the year 2009-10 M/s Nippon Motor (P) Ltd has given discount to the tune of Rs.1,72,96,805/- to their customers for promoting business and achieving the target fixed upon them by the manufacturing company. The difference between the Audit Report and Annual return occurred due to the discount given as cash discount to the tune of Rs.1,72,96,805/- has been included in the Audit Report. In this regard the dealer has given cash discount separately charged in the invoices. The discount amount specifically shown in the invoices. The assessing authority verified the copies of the invoices and found in order. The above turnover is not exigible to VAT as per section 2 Explanation III(ii) read with Rule 9 & 10 of KVAT Act and Rules. Bifurcation of the difference is as follows:-</p>
Dealer Name / TIN	Nippon Motor Corporation Private Ltd. 32070463402	Sales turnover as per audit report in 13 &13A :Rs. 4,68,05,54,024.00
Year	2009-10	Sales turnover as per annual return :Rs. 4,66,32,57,129.00
Turnover escaped (Rs.)	1,72,96,805/-	Difference :Rs. 1,72,96,805.00
Tax plus interest (Rs.)	33,19,257/-	Cash discount allowed through invoices :Rs. 1,72,96,805.00
Penalty (Rs.)	43,67,443/-	Difference : NIL
		Hence there is no irregularities in this case and there is no short levy of tax towards the exchequer.

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Para No.	Gist of the case	Present position		
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.16 The Travancore Cochin Chemicals Limited 32070482954(2009-10) CTO, Special Circle III, Ernakulam</p> <p>The Accountant General's observation is that for the year 2009-10 the assessee's sales as per audited statement is Rs.117,49,50,859 whereas as per return it is Rs.1,17,13,66,587/- thus there is a short reporting of turnover to the tune of Rs.35,84,272/-.</p> <p>The assessee The Travancore Cochin Chemicals Ltd is a public sector company engaged in manufacture and sales of chemicals. Due to price variation on the goods sold by the company, the company raised debit notes to the tune of Rs.29,36,789/- and the same was included in the Part F of the return and remitted OPT Rs.1,10,014/- in the self assessed return. i. e. Rs.29,36,789/- was not included in the sales turnover in the Form 10 though tax there on remitted. Whereas in the books of accounts sales turnover is inclusive of this price variation amount of Rs.29,36,789/-.</p> <p>Apart from this, there are omission of sales of water (non-taxable item) Rs.4,42,944/- and debit note for price variation on sales to M/s KMML for Rs.2,03,988/- (tax effect Rs.8,242/-), clerical mistakes in sales figures Rs.50 & Rs.500. Total sales omission is Rs.6,47,482/- and tax effect thereon is Rs.8,264/-.</p> <p>As per the revised return for March 2010, there is excess tax at credit of Rs.3,87,250/-(Tax paid Rs.12,74,035/- Tax payable Rs.8,86,785/-). Total sales not conceded in self assessment return is Rs.6,47,482/- and tax thereon is Rs.8,264/-. Deducting this there is still excess of Rs.3,78,986/- at credit (Rs.3,87,250/- - Rs.8,264/-). There is no loss of revenue in this case.</p>		
	<table border="1"> <tr> <td data-bbox="272 1391 448 1532">Dealer Name / TIN</td> <td data-bbox="448 1391 692 1532">The Travancore Cochin Chemicals Limited 32070482954</td> </tr> </table>	Dealer Name / TIN	The Travancore Cochin Chemicals Limited 32070482954	
Dealer Name / TIN	The Travancore Cochin Chemicals Limited 32070482954			
	<table border="1"> <tr> <td data-bbox="272 1538 448 1581">Year</td> <td data-bbox="448 1538 692 1581">2009-10</td> </tr> </table>	Year	2009-10	
Year	2009-10			
	<table border="1"> <tr> <td data-bbox="272 1588 448 1666">Turnover escaped (Rs.)</td> <td data-bbox="448 1588 692 1666">35,84,272/-</td> </tr> </table>	Turnover escaped (Rs.)	35,84,272/-	
Turnover escaped (Rs.)	35,84,272/-			
	<table border="1"> <tr> <td data-bbox="272 1673 448 1751">Tax plus interest (Rs.)</td> <td data-bbox="448 1673 692 1751">2,20,103/-</td> </tr> </table>	Tax plus interest (Rs.)	2,20,103/-	
Tax plus interest (Rs.)	2,20,103/-			
	<table border="1"> <tr> <td data-bbox="272 1758 448 1798">Penalty (Rs.)</td> <td data-bbox="448 1758 692 1798">2,89,609/-</td> </tr> </table>	Penalty (Rs.)	2,89,609/-	
Penalty (Rs.)	2,89,609/-			

Para No.	Gist of the case	Present position		
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.17 Mark Associates, Renji 32071075424(2009-10) CTO, Special Circle III, Ernakulam</p> <p>The objection of the C&AG is that during the year 2009-10 the dealer has short reported a turnover of Rs.2,47,28,106/- which resulted in short payment of tax to the tune of Rs.26,84,817/-. Incorporating the above defect a pre-assessment notice under sub section 1 of section 25 of the KVAT Act 2003 was issued on 28-11-2011 and the assessment was completed on 09-03-2012. On receipt of the assessment order the dealer filed appeal before the Deputy Commissioner (Appeals) Ernakulam vide KVATA 1508 of 2012. During the above year the dealer has received an amount of Rs.2,47,27,926/- as commission for operating C&F agency depot on behalf of M/s HPCL a Government of India undertaking and that this has nothing to do with the purchases effected by the taxable turnover. As per the directions of the Deputy Commissioner (Appeals) in KVATA 1508 of 2012 dated 10-10-2012, the above turnover is exempted from the taxable turnover and modified the assessment on 30-03-2013. As per the modified assessment there is an excess payment of Rs.3,64,524/-. In view of the above there is no short levy of tax involved. Hence the audit objection may be dropped.</p>		
	<table border="1"> <tr> <td data-bbox="256 1285 501 1395">Dealer Name / TIN</td> <td data-bbox="501 1285 738 1395">Mark Associates, Renji 32071075424</td> </tr> </table>	Dealer Name / TIN	Mark Associates, Renji 32071075424	
Dealer Name / TIN	Mark Associates, Renji 32071075424			
	<table border="1"> <tr> <td data-bbox="256 1408 501 1444">Year</td> <td data-bbox="501 1408 738 1444">2009-10</td> </tr> </table>	Year	2009-10	
Year	2009-10			
	<table border="1"> <tr> <td data-bbox="256 1458 501 1527">Turnover escaped (Rs.)</td> <td data-bbox="501 1458 738 1527">2,47,28,106/-</td> </tr> </table>	Turnover escaped (Rs.)	2,47,28,106/-	
Turnover escaped (Rs.)	2,47,28,106/-			
	<table border="1"> <tr> <td data-bbox="256 1543 501 1612">Tax plus interest (Rs.)</td> <td data-bbox="501 1543 738 1612">40,80,921/-</td> </tr> </table>	Tax plus interest (Rs.)	40,80,921/-	
Tax plus interest (Rs.)	40,80,921/-			
	<table border="1"> <tr> <td data-bbox="256 1628 501 1664">Penalty (Rs.)</td> <td data-bbox="501 1628 738 1664">53,69,633/-</td> </tr> </table>	Penalty (Rs.)	53,69,633/-	
Penalty (Rs.)	53,69,633/-			

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Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="260 1043 895 1357"> <tr> <td data-bbox="260 1043 584 1160">Dealer Name / TIN</td> <td data-bbox="584 1043 895 1160">Gulf Oil Lubricants India 32070444974</td> </tr> <tr> <td data-bbox="260 1160 584 1211">Year</td> <td data-bbox="584 1160 895 1211">2010-11</td> </tr> <tr> <td data-bbox="260 1211 584 1263">Turnover escaped (Rs.)</td> <td data-bbox="584 1211 895 1263">2,22,51,391/-</td> </tr> <tr> <td data-bbox="260 1263 584 1314">Tax plus interest (Rs.)</td> <td data-bbox="584 1263 895 1314">39,32,933/-</td> </tr> <tr> <td data-bbox="260 1314 584 1357">Penalty (Rs.)</td> <td data-bbox="584 1314 895 1357">56,18,476/-</td> </tr> </table>	Dealer Name / TIN	Gulf Oil Lubricants India 32070444974	Year	2010-11	Turnover escaped (Rs.)	2,22,51,391/-	Tax plus interest (Rs.)	39,32,933/-	Penalty (Rs.)	56,18,476/-	<p>Sl.No.18 Gulf Oil Lubricants India 32070444974 (2010-11) CTO, Special Circle III, Ernakulam</p> <p>Assessment for the year 2010-11 has been completed on 31-12-2012 creating an additional demand of Rs.54,40,037/-. The dealer has filed appeal before the Deputy Commissioner(Appeals), Ernakulam and the appellate authority has remanded the assessment order in KVATA No.1006/2013 dated 7-8-2013. The appellate order was implemented as per order dated 1-10-2016 as a case of NIL demand.</p>
Dealer Name / TIN	Gulf Oil Lubricants India 32070444974											
Year	2010-11											
Turnover escaped (Rs.)	2,22,51,391/-											
Tax plus interest (Rs.)	39,32,933/-											
Penalty (Rs.)	56,18,476/-											

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases.</p> <table border="1" data-bbox="264 1294 730 1675"> <tr> <td data-bbox="264 1294 497 1413">Dealer Name / TIN</td> <td data-bbox="497 1294 730 1413">Somany Ceramics Limited 32070445604</td> </tr> <tr> <td data-bbox="264 1413 497 1462">Year</td> <td data-bbox="497 1413 730 1462">2010-11</td> </tr> <tr> <td data-bbox="264 1462 497 1543">Turnover escaped (Rs.)</td> <td data-bbox="497 1462 730 1543">2,84,63,200/-</td> </tr> <tr> <td data-bbox="264 1543 497 1624">Tax plus interest (Rs.)</td> <td data-bbox="497 1543 730 1624">50,30,871/-</td> </tr> <tr> <td data-bbox="264 1624 497 1675">Penalty (Rs.)</td> <td data-bbox="497 1624 730 1675">71,86,958/-</td> </tr> </table>	Dealer Name / TIN	Somany Ceramics Limited 32070445604	Year	2010-11	Turnover escaped (Rs.)	2,84,63,200/-	Tax plus interest (Rs.)	50,30,871/-	Penalty (Rs.)	71,86,958/-	<p>Sl.No.19 Somany Ceramics Limited 32070445604(2010-11) CTO, Special Circle III, Ernakulam</p> <p>The escaped turnover assessment in respect of the dealer has been completed under section 25(1) of the KVAT Act 2003 on 28-11-2012 incorporating the turnover difference between the annual return and audit report and other irregularities noticed in return scrutiny. The total taxable turnover fixed in the order dated 28-11-2012 is Rs.30,12,36,590/- and created additional demand of Rs.1,28,70,361/-. On receipt of the assessment order, the dealer filed statutory appeal against the assessment order and also remitted Rs.7,00,000/- for obtaining conditional stay. The Deputy Commissioner(Appeals) Ernakulam has modified the assessment order vide order No.KVATA 469/2013 dated 12-04-2013. In order to comply with the appellate directions, the assessment was modified vide order No.32070445604/2010-11 dated 11-09-2013. As per the modified assessment the taxable turnover fixed reduced to Rs.21,68,62,874/-. But after giving credit of Rs.7,00,000/- remitted to obtain conditional stay resulted in excess payment of tax to the tune of Rs.5,86,390/-. Considering the above facts, the audit objection may be dropped.</p>
Dealer Name / TIN	Somany Ceramics Limited 32070445604											
Year	2010-11											
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Dealer Name / TIN	R F Motors Private Limited 32071272895											
Year	2011-12											
Turnover escaped (Rs.)	25,10,975/-											
Tax plus interest (Rs.)	4,05,774/-											
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	<table border="1"> <tr> <td data-bbox="260 1317 502 1429">Dealer Name / TIN</td> <td data-bbox="502 1317 738 1429">Mandumpal Enterprises 32081211022</td> </tr> <tr> <td data-bbox="260 1429 502 1485">Year</td> <td data-bbox="502 1429 738 1485">2011-12</td> </tr> <tr> <td data-bbox="260 1485 502 1563">Turnover escaped (Rs.)</td> <td data-bbox="502 1485 738 1563">1,49,41,046/-</td> </tr> <tr> <td data-bbox="260 1563 502 1641">Tax plus interest (Rs.)</td> <td data-bbox="502 1563 738 1641">6,72,421/-</td> </tr> <tr> <td data-bbox="260 1641 502 1686">Penalty (Rs.)</td> <td data-bbox="502 1641 738 1686">10,50,658/-</td> </tr> </table>	Dealer Name / TIN	Mandumpal Enterprises 32081211022	Year	2011-12	Turnover escaped (Rs.)	1,49,41,046/-	Tax plus interest (Rs.)	6,72,421/-	Penalty (Rs.)	10,50,658/-	<p>Assessment in this case was completed on 10.08.2012 fixing taxable turnover as Rs.29,82,14,832/- and tax effect Rs.8,41,533/-. This assessment includes the escaped turnover mentioned in the audit objection. The taxable turnover in the return was Rs. 26,24,73,786/-.</p> <p>The assessee filed appeal against assessment order, and the Deputy Commissioner(Appeals), Ernakulam reduced the addition made in the assessment to 50%. So the assessment was modified vide Order dtd.03.08.2016 fixing the taxable turnover of Rs.28,78,14,832/- and tax effect Rs. 3,77,087/- (tax + cess - Rs. 2,46,462/- and interest Rs.1,30,625/-). The assessee has remitted the balance dues of Rs.3,77,087/- vide chalan nos.285/07.09.2016 and 45/28.10.2016.</p>
Dealer Name / TIN	Mandumpal Enterprises 32081211022											
Year	2011-12											
Turnover escaped (Rs.)	1,49,41,046/-											
Tax plus interest (Rs.)	6,72,421/-											
Penalty (Rs.)	10,50,658/-											

Para No.	Gist of the case	Present position										
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Dealer Name / TIN	JCT Motors 32010619015											
Year	2009-10											
Turnover escaped (Rs.)	3,34,03,132/-											
Tax plus interest (Rs.)	64,10,061/-											
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Para No.	Gist of the case	Present position										
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Dealer Name / TIN	Indroyal Crafts Private Limited 32010888442											
Year	2009-10											
Turnover escaped (Rs.)	20,67,159/-											
Tax plus interest (Rs.)	3,92,642/-											
Penalty (Rs.)	5,16,634/-											

Para No.	Gist of the case	Present position																								
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="271 1176 790 1523"> <tr> <td>Dealer Name / TIN</td> <td>Jaya Agencies 32010152725</td> </tr> <tr> <td>Year</td> <td>2010-11</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>42,77,795/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>7,48,388/-</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>10,69,126/-</td> </tr> </table>	Dealer Name / TIN	Jaya Agencies 32010152725	Year	2010-11	Turnover escaped (Rs.)	42,77,795/-	Tax plus interest (Rs.)	7,48,388/-	Penalty (Rs.)	10,69,126/-	<p>Sl.No.29 <u>Jaya Agencies</u> <u>32010152725(2010-2011)</u> <u>CTO, Attingal</u></p> <p>On verification of the assessment records it is ascertained that the difference in the sales and purchase turnover of annual return corresponding with Form 13A is that the turnover of sales and purchase shown in audited statement was inclusive of VAT and Cess paid. The difference in the sales turnover of annual return for the year 2010-11 and in the Forms 13 &13A is reconciled as follows:-</p> <table data-bbox="813 929 1380 1120"> <tr> <td>Sales as per annual return</td> <td>:Rs.3,42,31,688.00</td> </tr> <tr> <td>Add: VAT on sales</td> <td>:Rs.42,35,435.00</td> </tr> <tr> <td>Cess Payable</td> <td>:Rs. 42,360.00</td> </tr> <tr> <td>Sales as per 13 &13A</td> <td>:Rs. 3,85,09,483.00</td> </tr> </table> <p>The difference in the Purchase turnover of annual return for the year 2010-11 and in 13 &13A is reconciled as follows:-</p> <table data-bbox="813 1288 1396 1422"> <tr> <td>Purchases as per annual return</td> <td>:Rs.3,25,23,617.00</td> </tr> <tr> <td>Add: VAT</td> <td>:Rs. 40,20,246.00</td> </tr> <tr> <td>Total</td> <td>:Rs.3,65,84,072.00</td> </tr> </table> <p>In the light of the above facts, the audit objection may be dropped.</p>	Sales as per annual return	:Rs.3,42,31,688.00	Add: VAT on sales	:Rs.42,35,435.00	Cess Payable	:Rs. 42,360.00	Sales as per 13 &13A	:Rs. 3,85,09,483.00	Purchases as per annual return	:Rs.3,25,23,617.00	Add: VAT	:Rs. 40,20,246.00	Total	:Rs.3,65,84,072.00
Dealer Name / TIN	Jaya Agencies 32010152725																									
Year	2010-11																									
Turnover escaped (Rs.)	42,77,795/-																									
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Dealer Name / TIN	South Indian Federation of Fishermen Societies 32010164864	
Year	2010-11	
Turnover escaped (Rs.)	56,36,103/-	
Tax plus interest (Rs.)	7,90,115/-	
Penalty (Rs.)	11,28,736/-	

Para No.	Gist of the case	Present position
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p><u>Sl.No.31 Indroyal Furniture Company Private Limited</u> <u>32010616225 (2010-2011)</u> <u>CTO, Special Circle,</u> <u>Thiruvananthapuram</u></p> <p>The escaped turnover detected in the audit enquiry is assessed vide proceedings No.32010616225/10-11 dated 30-4-2013 creating an additional demand of Rs.3,67,391/- (Tax) and Rs.88,173.84 (Interest). Remitted Rs.4,57,678/- as per DD No.779607 dtd.23.8.19, SBI, Tvm</p>
Dealer Name / TIN	Indroyal Furniture Company Private Limited 32010616225	
Year	2010-11	
Turnover escaped (Rs.)	11,67,417/-	
Tax plus interest (Rs.)	2,06,341/-	
Penalty (Rs.)	2,94,773/-	

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="268 1055 858 1368"> <thead> <tr> <th data-bbox="268 1055 560 1171">Dealer Name / TIN</th> <th data-bbox="560 1055 858 1171">Adtech Systems Limited 32010103844</th> </tr> </thead> <tbody> <tr> <td data-bbox="268 1171 560 1218">Year</td> <td data-bbox="560 1171 858 1218">2011-12</td> </tr> <tr> <td data-bbox="268 1218 560 1265">Turnover escaped (Rs.)</td> <td data-bbox="560 1218 858 1265">1,15,49,972/-</td> </tr> <tr> <td data-bbox="268 1265 560 1312">Tax plus interest (Rs.)</td> <td data-bbox="560 1265 858 1312">18,66,476/-</td> </tr> <tr> <td data-bbox="268 1312 560 1368">Penalty (Rs.)</td> <td data-bbox="560 1312 858 1368">29,16,368/-</td> </tr> </tbody> </table>	Dealer Name / TIN	Adtech Systems Limited 32010103844	Year	2011-12	Turnover escaped (Rs.)	1,15,49,972/-	Tax plus interest (Rs.)	18,66,476/-	Penalty (Rs.)	29,16,368/-	<p><u>Sl.No.32 Adtech Systems Limited</u> <u>32010103844 (2011-12)</u> <u>CTO, Special Circle,</u> <u>Thiruvananthapuram.</u></p> <p>The audit objection is that the total turnover conceded in the return is Rs. 37,10,81,567/- whereas as per the accounts the total turnover is Rs. 38,26,31,539/-. Thus the total short levy pointed out is Rs. 1,15,49,972/-. In the return, the dealer had not conceded interstate stock transfer out of Rs. 1,14,14,719/-. This was assessed vide order dated 03.04.2018.</p> <p>Similarly, there is a difference in export turnover conceded between return and accounts. Export turnover conceded as per the return is Rs. 6,79,04,846/- whereas as per accounts, exports sales turnover is Rs. 6,81,77,039.50. The difference of Rs. 2,72,193/- has also been included in the assessment order dated 03.04.2018.</p> <p>Thus the short levy pointed out by Accountant General is included in the assessment order.</p> <p>The dealer filed appeal against the order and also paid Rs.14,16,553/- for getting stay. The assessment was modified on 03.4.18 creating additional demand of Rs.44,47,617/- as per appellate order No. K206/14 dated 05.08.2017. Subsequently, the order was rectified, as per the request of the dealer, vide order dtd. 30.9.2019 and the demand was reduced to Rs.12,53,972/-. The dealer opted Amnesty and remitted Rs.3,37,707/- vide cheque no.948743 dtd. 31.12.19.</p>
Dealer Name / TIN	Adtech Systems Limited 32010103844											
Year	2011-12											
Turnover escaped (Rs.)	1,15,49,972/-											
Tax plus interest (Rs.)	18,66,476/-											
Penalty (Rs.)	29,16,368/-											

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="272 1151 815 1532"> <tr> <td data-bbox="272 1151 544 1267">Dealer Name / TIN</td> <td data-bbox="549 1151 815 1267">The Travancore Mats & Matting Co. 32040250132</td> </tr> <tr> <td data-bbox="272 1274 544 1317">Year</td> <td data-bbox="549 1274 815 1317">2009-10</td> </tr> <tr> <td data-bbox="272 1323 544 1397">Turnover escaped (Rs.)</td> <td data-bbox="549 1323 815 1397">43,13,831/-</td> </tr> <tr> <td data-bbox="272 1404 544 1478">Tax plus interest (Rs.)</td> <td data-bbox="549 1404 815 1478">3,40,504/-</td> </tr> <tr> <td data-bbox="272 1485 544 1532">Penalty (Rs.)</td> <td data-bbox="549 1485 815 1532">4,48,032/-</td> </tr> </table>	Dealer Name / TIN	The Travancore Mats & Matting Co. 32040250132	Year	2009-10	Turnover escaped (Rs.)	43,13,831/-	Tax plus interest (Rs.)	3,40,504/-	Penalty (Rs.)	4,48,032/-	<p><u>Sl.No.33 The Travancore Mats and Matting Co. 32040250132 (2009-10) CTO, Cherthala</u></p> <p>The original assessment was completed as per order No.32040250132/2009-10/KVAT dated 31.10.2013 creating an additional demand of Rs.9,38,910/-. In the above order, the assessing authority clarified the objection pointed out by AG, ie. "the variation Total turnover in annual return and Audited Statement in Form 13A". The assessing authority consider the higher amount as in Form 13A. The dealer filed appeal against the order, the appellate authority directed to modify the above order and the assessing authority was modified as per order No.32040250132/2009-10 dated 04.08.2016 and the modified demand of Rs.2,68,260/-(tax), Rs.2,28,021/- (Interest). The dealer remitted full amount of tax and interest as per challan No. 577 dated 14.10.2016. Hence the defect may kindly be dropped.</p>
Dealer Name / TIN	The Travancore Mats & Matting Co. 32040250132											
Year	2009-10											
Turnover escaped (Rs.)	43,13,831/-											
Tax plus interest (Rs.)	3,40,504/-											
Penalty (Rs.)	4,48,032/-											

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>S D Pharmacy 32040296245</td> </tr> <tr> <td>Year</td> <td>2010-11</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>56,98,580/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>3,22,312/-</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>4,60,445/-</td> </tr> </table>	Dealer Name / TIN	S D Pharmacy 32040296245	Year	2010-11	Turnover escaped (Rs.)	56,98,580/-	Tax plus interest (Rs.)	3,22,312/-	Penalty (Rs.)	4,60,445/-	<p>Sl.No.34 S D Pharmacy <u>32040296245(2010-11)</u> <u>CTO, I Circle, Alappuzha</u></p> <p>Assessment has been completed for the year 2010-11 vide order No.32040296245/10-11 dtd:17.1.15 incorporating the defects pointed out in the Audit. Against this order dealer filed appeal before the appellate authority. The Appellate Authority as per order no KVATA(ALPY)198 &199/15 dtd 30-4-2015 "allowed" the appeal stated that." On going through the impugned proceedings it is seen that assessing authority has acted on the basis of the Audit enquiry forwarded by the audit team. The appellant has raised contentions now raised before the assessing authority and there was no meticulous examination at their stage. During the year 2010-11, the appellant has allowed discount to Rs.56,98,580.00. At the time of hearing of the case the learned representative has produced copies of Audit Report, Ledger copies on Trade discount and copies of Invoices to show that they have allowed discount to the customers and tax is levied at the net sale value. Hence their sale proceeds after discount was reflected. Section 2 sub clause(ii) of clause(iii) which governs the situations now under dispute. For easy reference the same is reproduced below: "Any discount on the price allowed in respect of any sale where such turnover is shown separately in the tax invoice and the buyer pays only the amount reduced by such discount; or any amount refunded in respect of goods returned by customers shall not be included in the turnover". In this case in the trading account filed by the appellant, appellant has disclosed trade discount as direct expenses and when the same was added along with turnover conceded in the return both will tally ,i.e:-the turnover declared in the profit and loss account tally each other. The appellant in</p>
Dealer Name / TIN	S D Pharmacy 32040296245											
Year	2010-11											
Turnover escaped (Rs.)	56,98,580/-											
Tax plus interest (Rs.)	3,22,312/-											
Penalty (Rs.)	4,60,445/-											

this case has allowed discount through his invoice by separately disclosing the discount in the invoice itself. The net sale value was conceded in the return filed, whereas the amount inclusive of discount was shown in the Profit & Loss account. At the same time the appellant disclosed the amount allowed as discount as direct expense. Hence the difference between the figures furnished in the Profit & Loss Account and in the annual return is not a sales suppression. Therefore the assessment on the difference of turnover between Profit & Loss Account and the Annual return is not sustainable. Likewise in the year 2011-12, the appellant has disclosed turnover in the Profit & Loss Account inclusive of discount and in the annual return exclusive of discount. The assessing authority in this case also considered the difference in turnover between the Audit Report and Annual return as sales suppression and assessed to tax. As the case is similar to the case in the year 2010-11 stated above, the turnover difference is the discount allowed by the appellant therefore cannot be assessed to tax. The profit & Loss account, Audit Report and Copies invoices issued are filed to substantiate this fact. Hence the assessment of difference in turnover between Profit & Loss Account and Annual Return in this year also is not sustainable. For the sustainability of the penalty, penalty is leviable only in the cases where there is no payment of tax on account of intentional sales suppression. In the cases of the appellant the assessing authority alleged sales suppression for the discount allowed by the appellant. Therefore the assessing authority cannot establish any valid sales suppression and thereby any non payment of tax due. Hence the penalty levied is also not sustainable for both the years. In view of the above the appeal stands allowed. Ordered accordingly. As per the appellate order, assessing authority had issued the order for the year 2010-11 vide order no 32040296245/2010-11 dtd: 3-10-2016 with 'Nil' demand.

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.35 S D Pharmacy <u>32040296245 (2011-12)</u> <u>CTO, I Circle, Alappuzha</u></p> <p>Assessment has been completed for the years 2011-12 vide order No 32040296245/11-12 dtd:17-1-15 incorporating the defects pointed out in the Audit. Against this order dealer filed appeal before the appellate authority. The Appellate Authority as per order no KVATA(ALPY)198 &199/15 dtd 30-4-2015 "allowed" the appeal stated that." On going through the impugned proceedings it is seen that assessing authority has acted on the basis of the Audit enquiry forwarded by the audit team. The appellant has raised contentions now raised before the assessing authority and there was no meticulous examination at their stage. During the year 2010-11, the appellant has allowed discount to Rs.56,98,580.00. At the time of hearing of the case the learned representative has produced before me copies of Audit Report, Ledger copies on Trade discount and copies of Invoices to show that they have allowed discount to the customers and tax is levied at the net sale value. Hence their sale proceeds after discount was reflected. Section 2 sub clause(ii) of clause(iii) which governs the situations now under dispute. For easy reference the same is reproduced below: "Any discount on the price allowed in respect of any sale where such turnover is shown separately in the tax invoice and the buyer pays only the amount reduced by such discount; or any amount refunded in respect of goods returned by customers shall not be included in the turnover". In this case in the trading account filed by the appellant, appellant has disclosed trade discount as direct expenses</p>										
	<table border="1"> <tr> <td data-bbox="292 1059 563 1137">Dealer Name / TIN</td> <td data-bbox="571 1059 815 1137">S D Pharmacy 32040296245</td> </tr> <tr> <td data-bbox="292 1137 563 1189">Year</td> <td data-bbox="571 1137 815 1189">2011-12</td> </tr> <tr> <td data-bbox="292 1189 563 1267">Turnover escaped (Rs.)</td> <td data-bbox="571 1189 815 1267">49,94,151/-</td> </tr> <tr> <td data-bbox="292 1267 563 1323">Tax plus interest (Rs.)</td> <td data-bbox="571 1267 815 1323">2,58,258/-</td> </tr> <tr> <td data-bbox="292 1323 563 1368">Penalty (Rs.)</td> <td data-bbox="571 1323 815 1368">4,03,527/-</td> </tr> </table>	Dealer Name / TIN	S D Pharmacy 32040296245	Year	2011-12	Turnover escaped (Rs.)	49,94,151/-	Tax plus interest (Rs.)	2,58,258/-	Penalty (Rs.)	4,03,527/-	
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and when the same was added along with turnover conceded in the return both will tally ,i.e:-the turnover declared in the profit and loss account tally each other. The appellant in this case has allowed discount through his invoice by separately disclosing the discount in the invoice itself. The net sale value was conceded in the return filed, whereas the amount inclusive of discount was shown in the Profit & Loss account. At the same time the appellant disclosed the amount allowed as discount as direct expense. Hence the difference between the figures furnished in the Profit & Loss Account and in the annual return is not a sales suppression. Therefore the assessment on the difference of turnover between Profit & Loss Account and the Annual return is not sustainable. Likewise in the year 2011-12, the appellant has disclosed turnover in the Profit & Loss Account inclusive of discount and in the annual return exclusive of discount. The assessing authority in this case also considered the difference in turnover between the Audit Report and Annual return as sales suppression and assessed to tax. As the case is similar to the case in the year 2010-11 stated above, the turnover difference is the discount allowed by the appellant therefore cannot be assessed to tax. The profit & Loss account, Audit Report and Copies invoices issued are filed before me also to substantiate this fact. Hence the assessment of difference in turnover between Profit & Loss Account and Annual Return in this year also is not sustainable. For the sustainability of the penalty, penalty is leviable only in the cases where there is no payment of tax on account of intentional sales suppression. In the cases of the appellant the assessing authority alleged sales suppression for the discount allowed by the appellant. Therefore the

		<p>assessing authority cannot establish any valid sales suppression and thereby any non payment of tax due. Hence the penalty levied is also not sustainable for both the years. In view of the above the appeal stands allowed. Ordered accordingly. As per the appellate order, assessing authority had issued the order for the year 2011-12 vide order no dtd: 3-10-2016 with 'Nil' demand.</p>
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Para No.	Gist of the case	Present position
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No. 36 Deepu Agencies <u>32040983182 (2010-11)</u> <u>CTO, Kayamkulam</u></p> <p>The assessment for the year 2010-11 was completed demanding tax Rs. 3,30,586/-, Interest Rs. 1,53,591/-, Cess Rs. 3,306/- and penalty Rs. 6,67,784/-. Aggrieved by this order the dealer filed appeal before the Deputy Commissioner (Appeals) Kollam against the assessment order and revision petition before the Deputy Commissioner, Alappuzha against penalty order. The Deputy Commissioner (Appeals) Kollam dismissed the appeal vide order No. KVATA (ALPY) 164/15 dated 12-02-2016. The Deputy Commissioner, Alappuzha reduced the penalty to Rs. 50,000/- vide order No. A1-142/2015 dated 31-05-2016. Then the dealer filed appeal before the KVAT/AIT&ST Appellate Tribunal, Additional Bench, Kottayam. The Hon'ble Tribunal granted stay vide Order No. INTTP No. 50/2016 INTA (VAT) No. 55/2016 dated 11-05-2018. The dealer has withdrawn the appeal and opted the Amnesty Scheme 2020 and settled.</p>
Dealer Name / TIN	Deepu Agencies 32040983182	
Year	2010-11	
Turnover escaped (Rs.)	49,82,466/-	
Tax plus interest (Rs.)	4,67,090/-	
Penalty (Rs.)	6,67,272/-	

Para No.	Gist of the case	Present position
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.37 <u>Deepu Agencies</u> <u>32040983182 (2011-12)</u> <u>CTO, Kayamkulam</u></p> <p>The assessment for the year 2011-12 was completed demanding tax Rs. 2,86,772/-, Interest Rs. 98,478/-, Cess Rs. 2,868/- and Penalty Rs. 5,79,280/-. Aggrieved by this order the dealer filed appeal before the Deputy Commissioner (Appeals), Kollam against the assessment order and filed revision petition before Deputy Commissioner, Alappuzha against the penalty order. The Deputy Commissioner (Appeals) Kollam partly allowed the appeal vide order No. KVATA (ALPY) 165/15 dated 12-02-2016 and on the basis of the appellate order the assessment modified on 06-06-2016. The Deputy Commissioner, Alappuzha reduced the penalty to Rs. 50,000/- vide order No. A1-143/2015 dated 31-05-2016. Then the dealer filed appeal before the KVAT/AIT & ST Appellate Tribunal, Additional Bench Kottayam. The Hon'ble Tribunal granted stay vide order No. Intp No. 42/2016(Stay) in TA(VAT) No. 44/2016 dated 30-09-2020. The dealer has withdrawn the appeal and opted the Amnesty Scheme 2020 and settled.</p>
Dealer Name / TIN	Deepu Agencies 32040983182	
Year	2011-12	
Turnover escaped (Rs.)	4378193	
Tax plus interest (Rs.)	370642	
Penalty (Rs.)	579128	

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Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>The Highland Produce Company Limited 32040253822</td> </tr> <tr> <td>Year</td> <td>2011-12</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>2,63,11,932/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>17,77,578/-</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>27,77,465/-</td> </tr> </table>	Dealer Name / TIN	The Highland Produce Company Limited 32040253822	Year	2011-12	Turnover escaped (Rs.)	2,63,11,932/-	Tax plus interest (Rs.)	17,77,578/-	Penalty (Rs.)	27,77,465/-	<p><u>Sl.No.38 The Highland Produce Company Limited. 32040253822(2011-2012) CTO. Special Circle, Alappuzha</u></p> <p>The original assessment in respect of the dealer was completed on 01.08.2015. Later based on the audit objection, notice was issued to the taxpayer on 04.11.2016 and the dealer explained the variation as per letter dated 30.11.2016. The dealer explained that the stock transfer value differed was in respect of stock transfer of tea. The difference in value of tea stock transferred between return and audit report was due to specific and scientific reasons according to the accounting standards. From production centre to sale point, the ownership of the goods so transported is upon the company. Value at each stage i.e., production, storing, marketing and selling will vary to the extent of overhead expenses incurred. The effect should be recorded in the financial statements. The dealer filed F forms to prove transfer of tea to the quantity of 1563895 kg i.e., entire quantity transported was proved with F Form. On verification it is also found that the dealer had curtailed input tax credit Rs.1,08,390/- to the proportion of tea stock transferred. Hence, audit objection is not sustainable.</p>
Dealer Name / TIN	The Highland Produce Company Limited 32040253822											
Year	2011-12											
Turnover escaped (Rs.)	2,63,11,932/-											
Tax plus interest (Rs.)	17,77,578/-											
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Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="264 999 919 1279"> <thead> <tr> <th data-bbox="264 999 592 1077">Dealer Name / TIN</th> <th data-bbox="592 999 919 1077">D.C. Mills (Private) Limited</th> </tr> </thead> <tbody> <tr> <td data-bbox="264 1077 592 1133">Year</td> <td data-bbox="592 1077 919 1133">2011-12</td> </tr> <tr> <td data-bbox="264 1133 592 1178">Turnover escaped (Rs.)</td> <td data-bbox="592 1133 919 1178">58,08,097/-</td> </tr> <tr> <td data-bbox="264 1178 592 1223">Tax plus interest (Rs.)</td> <td data-bbox="592 1178 919 1223">2,30,893/-</td> </tr> <tr> <td data-bbox="264 1223 592 1279">Penalty (Rs.)</td> <td data-bbox="592 1223 919 1279">3,60,770/-</td> </tr> </tbody> </table>	Dealer Name / TIN	D.C. Mills (Private) Limited	Year	2011-12	Turnover escaped (Rs.)	58,08,097/-	Tax plus interest (Rs.)	2,30,893/-	Penalty (Rs.)	3,60,770/-	<p><u>Sl. No.39 D.C.Mills (Private) Limited</u> <u>32041309735(2011-12)</u> <u>AIT & CTO, Alappuzha</u></p> <p>Assessment completed on 22.08.2015 creating an additional demand of Rs.4,74,690/- and adjusted the dues from the excess IPT credit allowable for the year. Against this the assessee went on appeal. The appellate authority directed to modify the order on production of accounts, the assessee fails to produce the books of accounts and assessing authority restored the order. So no dues outstanding.</p>
Dealer Name / TIN	D.C. Mills (Private) Limited											
Year	2011-12											
Turnover escaped (Rs.)	58,08,097/-											
Tax plus interest (Rs.)	2,30,893/-											
Penalty (Rs.)	3,60,770/-											

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="272 1108 774 1456"> <tr> <td data-bbox="272 1108 523 1193">Dealer Name / TIN</td> <td data-bbox="523 1108 774 1193">Rajan Cashew Co 32020201394</td> </tr> <tr> <td data-bbox="272 1193 523 1243">Year</td> <td data-bbox="523 1193 774 1243">2009-10</td> </tr> <tr> <td data-bbox="272 1243 523 1328">Turnover escaped (Rs.)</td> <td data-bbox="523 1243 774 1328">67,79,393/-</td> </tr> <tr> <td data-bbox="272 1328 523 1413">Tax plus interest (Rs.)</td> <td data-bbox="523 1328 774 1413">4,16,309/-</td> </tr> <tr> <td data-bbox="272 1413 523 1456">Penalty (Rs.)</td> <td data-bbox="523 1413 774 1456">5,47,775/-</td> </tr> </table>	Dealer Name / TIN	Rajan Cashew Co 32020201394	Year	2009-10	Turnover escaped (Rs.)	67,79,393/-	Tax plus interest (Rs.)	4,16,309/-	Penalty (Rs.)	5,47,775/-	<p>Sl.No.40 <u>Rajan Cashew Company</u> <u>32020201394(2009-10)</u> <u>CTO, Special Circle, Kollam</u></p> <p>A short levy of tax for Rs.2,73,887/- due to short reporting of accounted sales turnover Rs.67,79,393/- for the year 2009-10 has been pointed out in the Audit Enquiry. The case was examined by the assessing authority and submitted the following facts.</p> <p>The sales turnover disclosed in the annual return for Rs.54,77,05,998/- includes inter-state stock transfer for Rs.4,57,61,250/-. Whereas the sales turnover reported in the audited statement of accounts are for Rs.55,44,85,391/- of which Rs.5,24,18,290/- are against inter-state stock transfer which are consignment sales. The entire consignment sales were supported with F forms. Hence the turnover difference Rs.66,57,040/- reported against the same are exempted turnover. The balance difference Rs.1,40,353/- were found against local sales and had been assessed at 4% vide order dated 28.01.2015 and remitted the tax due Rs.5,614/- with interest Rs.4,211/- vide chalan No.82 dated 11-02-2015.</p>
Dealer Name / TIN	Rajan Cashew Co 32020201394											
Year	2009-10											
Turnover escaped (Rs.)	67,79,393/-											
Tax plus interest (Rs.)	4,16,309/-											
Penalty (Rs.)	5,47,775/-											

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2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="279 952 885 1265"> <tr> <td data-bbox="279 952 566 1064">Dealer Name / TIN</td> <td data-bbox="566 952 885 1064">Kadavil Chemicals and Cements 32021469775</td> </tr> <tr> <td data-bbox="279 1064 566 1120">Year</td> <td data-bbox="566 1064 885 1120">2009-10</td> </tr> <tr> <td data-bbox="279 1120 566 1176">Turnover escaped (Rs.)</td> <td data-bbox="566 1120 885 1176">2421585</td> </tr> <tr> <td data-bbox="279 1176 566 1220">Tax plus interest (Rs.)</td> <td data-bbox="566 1176 885 1220">464702</td> </tr> <tr> <td data-bbox="279 1220 566 1265">Penalty (Rs.)</td> <td data-bbox="566 1220 885 1265">611450</td> </tr> </table>	Dealer Name / TIN	Kadavil Chemicals and Cements 32021469775	Year	2009-10	Turnover escaped (Rs.)	2421585	Tax plus interest (Rs.)	464702	Penalty (Rs.)	611450	<p>Sl.No.41 <u>Kadavil Chemicals and Cements</u> <u>32021469775 (2009-10)</u> <u>CTO, Anchal</u></p> <p>The audit objection is that the assessee has short reported a turnover of Rs.24,21,584/- in the annual return filed for the year 2009-10, but which was accounted in the audited statement filed for the same year. The sum of Rs.47,27,264/- reported as net sales in 13 & 13A includes discount of Rs.24,21,584/-. The assessment u/s 25(1) of the Act was completed on 20-4-2012 demanding tax due Rs.3,05,726/- and the entire amount was collected with interest Rs.91,719/- as shown below.</p> <p>Rs. 1,00,000/- Challan No.373/03.07.2012. Rs. 1,00,000/- Challan No.186/04.09.2012. Rs. 1,00,000/- Challan No.234/01.10.2012. Rs. 97,445/- Challan No.196/31.10/2012.</p>
Dealer Name / TIN	Kadavil Chemicals and Cements 32021469775											
Year	2009-10											
Turnover escaped (Rs.)	2421585											
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Para No.	Gist of the case	Present position																									
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="271 1041 837 1422"> <tr> <td>Dealer Name / TIN</td> <td>Koppara Enterprises Printing and Copy Solutions India Private Limited 32021674839</td> </tr> <tr> <td>Year</td> <td>2009-10</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>63,27,211/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>3,88,541/-</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>5,11,239/-</td> </tr> </table>	Dealer Name / TIN	Koppara Enterprises Printing and Copy Solutions India Private Limited 32021674839	Year	2009-10	Turnover escaped (Rs.)	63,27,211/-	Tax plus interest (Rs.)	3,88,541/-	Penalty (Rs.)	5,11,239/-	<p><u>Sl.No.42 Koppara Enterprises Printing and Copy Solutions India Private Limited 32021674839 (2009-10) CTO, Special Circle, Kollam</u></p> <p>In response to the audit enquiry, a pre-assessment notice U/s.25(1) was issued to the dealer to prove the genuineness of turnover difference. The assessee filed reply on 02.07.2011 stating that the turnover difference is only due to grouping of direct expenses and indirect expenses. The details of turnover differences are given below.</p> <table border="1" data-bbox="885 862 1452 1164"> <thead> <tr> <th></th> <th>As per annual return (in Rs.)</th> <th>As per P&L a/c (in Rs.)</th> </tr> </thead> <tbody> <tr> <td>Taxable sales</td> <td>1,47,16,313.00</td> <td>1,47,54,013.00</td> </tr> <tr> <td>Non taxable sales</td> <td>0</td> <td>62,89,511.00</td> </tr> <tr> <td>6(2) purchases</td> <td>37,703.00</td> <td>0</td> </tr> <tr> <td>Total</td> <td>1,47,54,016.00</td> <td>2,10,43,525.00</td> </tr> </tbody> </table> <p>The difference between P&L account and annual return is for Rs. 62,89,511/-. The details of non-taxable items were inadvertently omitted to be included while filing the monthly returns. On verification, it is revealed that the total non-taxable sales was Rs.62,89,511/-. Out of this Rs.35,07,861/- was taxable and exemption for non-taxable sales was given only to an extent of Rs.27,81,650/-. Subsequently, assessment was completed as per order dated 04.07.2011, creating an additional demand of Rs.1,20,631/- towards tax and Rs.21,713.58 towards interest. The amount is under RR.</p>		As per annual return (in Rs.)	As per P&L a/c (in Rs.)	Taxable sales	1,47,16,313.00	1,47,54,013.00	Non taxable sales	0	62,89,511.00	6(2) purchases	37,703.00	0	Total	1,47,54,016.00	2,10,43,525.00
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Dealer Name / TIN	Anu Cashew 32020282282											
Year	2010-11											
Turnover escaped (Rs.)	1,70,55,426/-											
Tax plus interest (Rs.)	9,64,655/-											
Penalty (Rs.)	13,78,078/-											

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="272 1209 710 1601"> <tr> <td data-bbox="272 1209 496 1321">Dealer Name / TIN</td> <td data-bbox="496 1209 710 1321">Veronica Marine Exports Private Limited</td> </tr> <tr> <td data-bbox="272 1321 496 1377">Year</td> <td data-bbox="496 1321 710 1377">2010-11</td> </tr> <tr> <td data-bbox="272 1377 496 1456">Turnover escaped (Rs.)</td> <td data-bbox="496 1377 710 1456">3,98,61,039/-</td> </tr> <tr> <td data-bbox="272 1456 496 1534">Tax plus interest (Rs.)</td> <td data-bbox="496 1456 710 1534">22,54,540/-</td> </tr> <tr> <td data-bbox="272 1534 496 1601">Penalty (Rs.)</td> <td data-bbox="496 1534 710 1601">32,20,772/-</td> </tr> </table>	Dealer Name / TIN	Veronica Marine Exports Private Limited	Year	2010-11	Turnover escaped (Rs.)	3,98,61,039/-	Tax plus interest (Rs.)	22,54,540/-	Penalty (Rs.)	32,20,772/-	<p>Sl. No. 44 <u>Veronica Marine Exports Private Limited</u> <u>32020824532 (2010-2011)</u> <u>CTO, III Circle, Kollam</u></p> <p>The Accountant General has pointed out that the sales turnover as per profit and loss account in respect of M/s Veronica Marine Exports for the year 2010-2011 comes to Rs.55,86,28,673/- and sales turnover as per return is Rs.51,87,67,634/- having a difference of Rs.3,98,61,039/-. The same has already been noted on 16-10-2012 by the assessing authority and notice dated 27-10-2012 was issued. The dealer filed supporting evidence. The actual export sales constitutes to Rs.51,70,94,617/- where as in the returns the dealer conceded only Rs.48,35,35,848.30. The same was examined with reference to the documents and it is found that the actual export comes to Rs.51,70,94,617/-. The difference of another Rs.30 lakhs was regarding a bill issued to M/s Capithan Exporting Company for the processing charges(labour). The dealer paid service tax for the same. However there was difference in DEPB sales for an amount of Rs.33,02,720/- and the difference was assessed. The dealer remitted Rs.1,35,255/- for the same on 08-02-2013. The major difference is in the export sales. The figures which are mentioned in the Audit Report and the difference is due to the exchange rate difference. As export sales are exempted from tax, there is no short levy as pointed out by the Accountant General.</p>
Dealer Name / TIN	Veronica Marine Exports Private Limited											
Year	2010-11											
Turnover escaped (Rs.)	3,98,61,039/-											
Tax plus interest (Rs.)	22,54,540/-											
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Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="245 943 919 1263"> <tr> <td data-bbox="245 943 584 1059">Dealer Name / TIN</td> <td data-bbox="584 943 919 1059">ACE Automobiles Private Limited 32110218674</td> </tr> <tr> <td data-bbox="245 1059 584 1111">Year</td> <td data-bbox="584 1059 919 1111">2009-10</td> </tr> <tr> <td data-bbox="245 1111 584 1162">Turnover escaped (Rs.)</td> <td data-bbox="584 1111 919 1162">61,11,383/-</td> </tr> <tr> <td data-bbox="245 1162 584 1214">Tax plus interest (Rs.)</td> <td data-bbox="584 1162 919 1214">11,55,868/-</td> </tr> <tr> <td data-bbox="245 1214 584 1263">Penalty (Rs.)</td> <td data-bbox="584 1214 919 1263">15,20,879/-</td> </tr> </table>	Dealer Name / TIN	ACE Automobiles Private Limited 32110218674	Year	2009-10	Turnover escaped (Rs.)	61,11,383/-	Tax plus interest (Rs.)	11,55,868/-	Penalty (Rs.)	15,20,879/-	<p>Sl.No.45 <u>Ace Automobiles Private Limited</u> 32110218674 (2009-10) CTO, Special Circle-1, Kozhikode</p> <p>On verification of the audit objection, it is revealed that the above difference amount relates to transfer of goods from head office to branches within the state, the same amount has been shown as purchase in the branch. As the amount actually not relates to sale, there is no escapement of tax involved in this case.</p>
Dealer Name / TIN	ACE Automobiles Private Limited 32110218674											
Year	2009-10											
Turnover escaped (Rs.)	61,11,383/-											
Tax plus interest (Rs.)	11,55,868/-											
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Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.46 Parisons Foods Private Ltd. 32110222904 (2009-10) CTO. Special Circle 1, Kozhikode</p> <p>Regarding the difference pointed out in sales turnover in annual return and that in 13 &13A concerned i.e sales turnover as per annual return is Rs.3,25,76,45,075/- (2,39,72,52,615/- plus the consignment transfer value of Rs.86,03,92,460/-) and sales turnover as per accounts Rs.3,25,96,26,180/-. The difference is only Rs.19,81,105/-. The assessment is completed vide order No.32110222904/2009-10 dated 30-09-2011 with additional demand of Rs.29,88,065/- (Tax 26,67,915/- + interest Rs.3,20,150/-). The dealer has remitted Rs.13,00,000/- towards the outstanding amount. All revenue recovery proceedings has been stayed as per interim order No.IA 1684/16 in OTR 124/16 dated 27-7-2016 of Hon'ble High Court of Kerala till the disposal of the revision petition. In the meanwhile, dealer opted Amnesty 2020 and settled the arrears.</p>										
	<table border="1"> <tr> <td data-bbox="271 1243 518 1355">Dealer Name / TIN</td> <td data-bbox="518 1243 782 1355">Parisons Foods Private Limited 32110222904</td> </tr> <tr> <td data-bbox="271 1355 518 1400">Year</td> <td data-bbox="518 1355 782 1400">2009-10</td> </tr> <tr> <td data-bbox="271 1400 518 1489">Turnover escaped (Rs.)</td> <td data-bbox="518 1400 782 1489">19109817</td> </tr> <tr> <td data-bbox="271 1489 518 1579">Tax plus interest (Rs.)</td> <td data-bbox="518 1489 782 1579">1157653</td> </tr> <tr> <td data-bbox="271 1579 518 1624">Penalty (Rs.)</td> <td data-bbox="518 1579 782 1624">1523228</td> </tr> </table>	Dealer Name / TIN	Parisons Foods Private Limited 32110222904	Year	2009-10	Turnover escaped (Rs.)	19109817	Tax plus interest (Rs.)	1157653	Penalty (Rs.)	1523228	<p>Bifurcation of turnover as per annual return</p> <p>Local sales : Rs. 2,19,38,07,169.96 Interstate sales : Rs. 4,43,92,213.99 Local purchase u/s. 6(2) : Rs. 1,71,28,712.50 Sales in the course of import : Rs. 14,19,24,519.00 Interstate stock transfer out : Rs. 86,03,92,460.00 Difference : Rs. 325.76 – 324.05 = 1.71 Crore (Figure disclosed as 6(2) purchase in annual return)</p>
Dealer Name / TIN	Parisons Foods Private Limited 32110222904											
Year	2009-10											
Turnover escaped (Rs.)	19109817											
Tax plus interest (Rs.)	1157653											
Penalty (Rs.)	1523228											
		<p>6(2) purchase turnover is not included in the sales turnover reported in the audit report. The difference Rs.19,81,105/- is assessed.</p>										

Para No.	Gist of the case	Present position																														
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Plast O Plast 32110267645</td> </tr> <tr> <td>Year</td> <td>2009-10</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>1,78,11,728/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>10,93,783/-</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>14,39,188/-</td> </tr> </table>	Dealer Name / TIN	Plast O Plast 32110267645	Year	2009-10	Turnover escaped (Rs.)	1,78,11,728/-	Tax plus interest (Rs.)	10,93,783/-	Penalty (Rs.)	14,39,188/-	<p>Sl.No.47 Plast O Plast 32110267645(2009-10) CTO,Special Circle I, Kozhikode</p> <p>The audit objection is that there was short reporting of accounted sales turnover during the year 2009-10. The assessing authority verified the objection and submitted the following facts. As per 13 & 13A total sales turnover accounted is Rs.39,06,86,794/- as illustrated below:-</p> <table> <tr> <td>Sales intra-state</td> <td>:Rs.19,53,98,467.00</td> </tr> <tr> <td>Intra-state stock transfer</td> <td><u>:Rs. 1,50,12,565.00</u></td> </tr> <tr> <td>Total</td> <td>:Rs.21,04,11,032.00</td> </tr> <tr> <td>Sales inter-state (against C Form)</td> <td>:Rs.24,25,250.00</td> </tr> <tr> <td>Sales in transit</td> <td><u>:Rs.27,99,260.00</u></td> </tr> <tr> <td>Total</td> <td>:Rs.52,24,510.00</td> </tr> <tr> <td>Inter-state stock transfer</td> <td><u>:Rs.12,08,000.00</u></td> </tr> <tr> <td></td> <td>:Rs.21,68,43,542.00</td> </tr> <tr> <td>Consignment Sales</td> <td><u>:Rs.17,38,43,252.00</u></td> </tr> <tr> <td>Total sales as per 13A filed</td> <td>:Rs.39,06,86,794.00</td> </tr> </table> <p><u>Less</u> Intra-state branch transfer which is also shown in the purchase side as intra-state stock transfer receipt which has to be deducted from the sale <u>:Rs. 1,50,12,565.00</u></p> <p>Actual sales as per 13A filed :Rs.37,56,74,229.00</p> <p>Local sales turnover reported as per return including consignment sales :Rs.36,92,41,661.00</p> <p>Inter-state sales against C Form :Rs. 24,25,405.00</p> <p>Stock transfer out <u>:Rs. 12,08,000.00</u></p> <p>Total sales as per return :Rs.37,28,75,066.00</p> <p>Corresponding sales turnover as per accounts (Local sale + consignment sale + inter-state sale + stock - transfer out [Rs.195,398,467 + 173,843,252 + 24,25,250 + 12,08,000] :Rs.37,28,74,969.00</p> <p>Difference :Rs. 27,99,260.00</p> <p>This is the figure that they have shown as "sales in transit". The assessing authority verified the books of accounts. This is actually the cost of "goods in transit" which they have included in the purchase value but not included in the closing stock of the</p>	Sales intra-state	:Rs.19,53,98,467.00	Intra-state stock transfer	<u>:Rs. 1,50,12,565.00</u>	Total	:Rs.21,04,11,032.00	Sales inter-state (against C Form)	:Rs.24,25,250.00	Sales in transit	<u>:Rs.27,99,260.00</u>	Total	:Rs.52,24,510.00	Inter-state stock transfer	<u>:Rs.12,08,000.00</u>		:Rs.21,68,43,542.00	Consignment Sales	<u>:Rs.17,38,43,252.00</u>	Total sales as per 13A filed	:Rs.39,06,86,794.00
Dealer Name / TIN	Plast O Plast 32110267645																															
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dealer; as per 13A filed.

To balance the trading account they have shown the same as "goods in transit". The dealer added this amount of Rs.27,99,260/- shown as goods in transit for 2009-10; to the purchase value for the year 2010-11 as under.

	Purchase as per 13 & 13A	Purchase as per Annual Return
Purchase from VAT dealers	13,49,30,071.00	13,49,30,071.00
Inter-state Purchase	6,15,02,589.00	5,87,03,329.00
	19,64,32,660.00	19,36,33,400.00

Difference Rs.27,99,260/-. This figure is the goods in transit for 2009-10; which is shown erroneously as sales in transit in 13A filed for the year 2009-10. Similarly, the closing stock value of Rs.1,00,76,029/- for the year 2009-10 is adopted as the opening stock value for the year 2010-11. Thus, there is no loss of revenue in this regard. Only technical defect occurred at the time of uploading 13 & 13A for 2009-10. In view of the above, the audit objection may be dropped.

Para No.	Gist of the case	Present position																																							
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Gunnebo India Private Limited 32110276375</td> </tr> <tr> <td>Year</td> <td>2009-10</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>53,23,378/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>10,21,556/-</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>13,44,153/-</td> </tr> </table>	Dealer Name / TIN	Gunnebo India Private Limited 32110276375	Year	2009-10	Turnover escaped (Rs.)	53,23,378/-	Tax plus interest (Rs.)	10,21,556/-	Penalty (Rs.)	13,44,153/-	<p>Sl.No.48 <u>Gunnebo India Private Limited</u> <u>32110276375(2009-10)</u> <u>CTO, Special Circle 1,Kozhikode</u></p> <p>The dealer has reported a total turnover of Rs.4,19,38,875 as per the annual return filed, which is as shown below:-</p> <table> <tr> <td>Local sales</td> <td>:Rs.3,92,34,331.85</td> </tr> <tr> <td>Inter-state sales</td> <td>:Rs. 24,90,707.43</td> </tr> <tr> <td>Inter-state stock (out)</td> <td>:Rs. 2,13,836.18</td> </tr> <tr> <td>Total</td> <td>:Rs.4,19,38,874.00</td> </tr> </table> <p>But while preparing the trading account and audited statements, the dealer has erroneously included the sales tax collected, Cess collected etc. along with the taxable turnover as shown below:-</p> <table border="1"> <thead> <tr> <th>Turnover</th> <th>Tax</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>3,92,34,331.85x12.5%</td> <td>49,04,291.48</td> <td>4,41,38,623.00</td> </tr> <tr> <td>24,90,707x12.5%</td> <td>3,11,338.38</td> <td>28,04,046.00</td> </tr> <tr> <td>Total</td> <td>52,15,629.86</td> <td>4,69,40,669.00</td> </tr> <tr> <td>Cess due @1%</td> <td>52,156.30</td> <td>52,156.30</td> </tr> <tr> <td>Inter-state stock(out)</td> <td></td> <td>2,13,836.18.00</td> </tr> <tr> <td>Total</td> <td></td> <td>4,72,06,661.00</td> </tr> </tbody> </table> <p>The Chartered Accountant has filed a declaration stating that a clerical error has occurred while entering the figures at the time of preparation of audit report.</p>	Local sales	:Rs.3,92,34,331.85	Inter-state sales	:Rs. 24,90,707.43	Inter-state stock (out)	:Rs. 2,13,836.18	Total	:Rs.4,19,38,874.00	Turnover	Tax	Total	3,92,34,331.85x12.5%	49,04,291.48	4,41,38,623.00	24,90,707x12.5%	3,11,338.38	28,04,046.00	Total	52,15,629.86	4,69,40,669.00	Cess due @1%	52,156.30	52,156.30	Inter-state stock(out)		2,13,836.18.00	Total		4,72,06,661.00
Dealer Name / TIN	Gunnebo India Private Limited 32110276375																																								
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	<table border="1"> <tr> <td data-bbox="280 1016 568 1133">Dealer Name / TIN</td> <td data-bbox="568 1016 858 1133">APCO Automobiles Private Limited 32110845401</td> </tr> <tr> <td data-bbox="280 1133 568 1182">Year</td> <td data-bbox="568 1133 858 1182">2009-10</td> </tr> <tr> <td data-bbox="280 1182 568 1267">Turnover escaped (Rs.)</td> <td data-bbox="568 1182 858 1267">2113854</td> </tr> <tr> <td data-bbox="280 1267 568 1317">Tax plus interest (Rs.)</td> <td data-bbox="568 1267 858 1317">405649</td> </tr> <tr> <td data-bbox="280 1317 568 1368">Penalty (Rs.)</td> <td data-bbox="568 1317 858 1368">533748</td> </tr> </table>	Dealer Name / TIN	APCO Automobiles Private Limited 32110845401	Year	2009-10	Turnover escaped (Rs.)	2113854	Tax plus interest (Rs.)	405649	Penalty (Rs.)	533748	
Dealer Name / TIN	APCO Automobiles Private Limited 32110845401											
Year	2009-10											
Turnover escaped (Rs.)	2113854											
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Dealer Name / TIN	Kalliyath Sanitary Centre 32110869104											
Year	2009-10											
Turnover escaped (Rs.)	959940											
Tax plus interest (Rs.)	181594											
Penalty (Rs.)	238940											

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Dealer Name / TIN	Hindalco Industries Limited 32110295501																	
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	<table border="1"> <tr> <td data-bbox="260 1052 555 1131">Dealer Name / TIN</td> <td data-bbox="563 1052 831 1131">Bhima Traders 32111266904</td> </tr> <tr> <td data-bbox="260 1131 555 1187">Year</td> <td data-bbox="563 1131 831 1187">2009-10</td> </tr> <tr> <td data-bbox="260 1187 555 1265">Turnover escaped (Rs.)</td> <td data-bbox="563 1187 831 1265">37,01,926/-</td> </tr> <tr> <td data-bbox="260 1265 555 1321">Tax plus interest (Rs.)</td> <td data-bbox="563 1265 831 1321">7,10,400/-</td> </tr> <tr> <td data-bbox="260 1321 555 1377">Penalty (Rs.)</td> <td data-bbox="563 1321 831 1377">9,34,736/-</td> </tr> </table>	Dealer Name / TIN	Bhima Traders 32111266904	Year	2009-10	Turnover escaped (Rs.)	37,01,926/-	Tax plus interest (Rs.)	7,10,400/-	Penalty (Rs.)	9,34,736/-	
Dealer Name / TIN	Bhima Traders 32111266904											
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2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.53 Bhima Traders <u>32111266904 (2010-2011)</u> <u>CTO, Vadakara</u></p> <p>The assessment has been completed u/s 25(1) of the KVAT Act 2003 by fixing taxable turnover to Rs.5,26,83,232/- (Sales intra state 5,08,81,803/- + Discount received Rs 13,73,749/- + Suppressed turnover as per TCR Rs. 1,42,560/- + Two times addition of the suppressed turnover Rs 2,85,120/-) against the reported turnover Rs 4,97,15,537/- creating an additional demand of Rs. 3,74,806/- + Interest 82,457/-. The Deputy Commissioner (A) Kozhikode as per VATA 423/13 dt. 26.07.2013 modified the order with direction to revise the assessment after verifying the documents produced by the assessee. Subsequently the assessee produced the declaration and credit note covering the discount received except for Rs.1,20,517/- for verification. Accordingly assessment was revised as per order dated 7-10-2013 as follows.</p> <table data-bbox="805 1243 1444 1646"> <tr> <td>Total turnover as per account</td> <td>Rs. 5,08,81,803.00</td> </tr> <tr> <td>Add: suppressed as per order</td> <td></td> </tr> <tr> <td>No. TCR 2/10-11 dated</td> <td></td> </tr> <tr> <td>14-03-2012 of I.O</td> <td>Rs. 1,42,560.00</td> </tr> <tr> <td>Add two times addition</td> <td>Rs. 2,85,120.00</td> </tr> <tr> <td>Add Discount</td> <td>Rs. 1,20,517.00</td> </tr> <tr> <td></td> <td>Rs. 5,48,197.00</td> </tr> <tr> <td></td> <td>Rs. 5,48,197.00</td> </tr> <tr> <td>Taxable turnover determined</td> <td>Rs 5,14,30,00.00</td> </tr> </table> <p>(12.5% on Rs 5,10,96,840/- and @ 4% on Rs 3,27,710/-) Creating an additional demand of Rs.2,16,585/-.</p> <p>After adjusting the excess amount paid Rs. 2,10,477/- for the year 2009-10, the existing amount against the dealer is Rs. 6,108/-. The amount is under RR.</p>	Total turnover as per account	Rs. 5,08,81,803.00	Add: suppressed as per order		No. TCR 2/10-11 dated		14-03-2012 of I.O	Rs. 1,42,560.00	Add two times addition	Rs. 2,85,120.00	Add Discount	Rs. 1,20,517.00		Rs. 5,48,197.00		Rs. 5,48,197.00	Taxable turnover determined	Rs 5,14,30,00.00
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Dealer Name / TIN	Bhima Traders 32111266904											
Year	2011-12											
Turnover escaped (Rs.)	55,45,750/-											
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Dealer Name / TIN	KTC Automobiles P Ltd 32110361842																									
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Tax	Rs.1,54,985/-
Cess	Rs. 1,550/-
Interest	Rs. 14,215/-
Compounding fee	<u>Rs.1,56,535/-</u>
	Rs.3,27,285/-

For the difference amount in the turnover of used motor vehicle sale of Rs.21,83,240/-(Rs.3,31,80,297/- - 3,09,97,057/-) Tax @.5% has been paid by the dealer vide DDNo.842134 of SBT dated 20-10-2015 for Rs.32,531/-

Tax due @.5% for Rs.21,83,240	Rs.10,916/-
Interest for 66 months	Rs. 7,205/-
Penal interest	Rs.14,409/-
Total	Rs.32,530/-

In the circumstances there is no short levy in this case.

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="264 1137 823 1480"> <thead> <tr> <th data-bbox="264 1137 544 1249">Dealer Name / TIN</th> <th data-bbox="544 1137 823 1249">Radiant Market Beams Pvt Ltd 32110364305</th> </tr> </thead> <tbody> <tr> <td data-bbox="264 1249 544 1301">Year</td> <td data-bbox="544 1249 823 1301">2009-10</td> </tr> <tr> <td data-bbox="264 1301 544 1384">Turnover escaped (Rs.)</td> <td data-bbox="544 1301 823 1384">2090339</td> </tr> <tr> <td data-bbox="264 1384 544 1435">Tax plus interest (Rs.)</td> <td data-bbox="544 1384 823 1435">383406</td> </tr> <tr> <td data-bbox="264 1435 544 1480">Penalty (Rs.)</td> <td data-bbox="544 1435 823 1480">504481</td> </tr> </tbody> </table>	Dealer Name / TIN	Radiant Market Beams Pvt Ltd 32110364305	Year	2009-10	Turnover escaped (Rs.)	2090339	Tax plus interest (Rs.)	383406	Penalty (Rs.)	504481	<p>Sl. No.56 <u>Radiant Market Beams Pvt. Ltd.</u> <u>32110364305(2009-10)</u> <u>CTO, III Circle, Kozhikode</u></p> <p>Assessment in respect of M/s Radiant Market Beams Pvt Ltd was completed as per Order No.32110364305/2009-10 dated 28-9-2011 of the Assistant Commissioner (Special Circle-II), Kozhikode incorporating the escaped turnover pointed out in the report of the Accountant General and other defects found by the assessing authority fixing the total and taxable turnover of the dealer at Rs.1,22,65,968/-. The above order was modified as per the directions of the Appellate authority and as per the modified order, the taxable turnover was reduced to Rs.1,19,37,810/-. As per the modified order dated 7-3-2014, tax due is Rs.78,494/- plus interest of Rs.21,193/- was pending to be realised from the dealer. Revenue Recovery action was initiated against the dealer as per the RRC No.16/14-15 and an amount of Rs.25,000/- is realised from the dealer under Revenue Recovery.</p> <p>The dealer opted amnesty scheme 2020 and paid the arrear amount in instalments and settled as per challan no. KL01288133220202iE dated 21.11.2020 ₹. 3,625/- and no. KL022012229202021E dated 30.03.2021 ₹. 14,498/-</p>
Dealer Name / TIN	Radiant Market Beams Pvt Ltd 32110364305											
Year	2009-10											
Turnover escaped (Rs.)	2090339											
Tax plus interest (Rs.)	383406											
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Dealer Name / TIN	WALL N FLOOR 32110777462											
Year	2009-10											
Turnover escaped (Rs.)	931142											
Tax plus interest (Rs.)	176487											
Penalty (Rs.)	232220											

Para No.	Gist of the case	Present position										
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<table border="1"> <thead> <tr> <th data-bbox="263 1108 534 1187">Dealer Name / TIN</th> <th data-bbox="534 1108 805 1187">Crescent Woods 32111077184</th> </tr> </thead> <tbody> <tr> <td data-bbox="263 1198 534 1243">Year</td> <td data-bbox="534 1198 805 1243">2009-10</td> </tr> <tr> <td data-bbox="263 1254 534 1321">Turnover escaped (Rs.)</td> <td data-bbox="534 1254 805 1321">24,27,272/-</td> </tr> <tr> <td data-bbox="263 1332 534 1400">Tax plus interest (Rs.)</td> <td data-bbox="534 1332 805 1400">3,50,564/-</td> </tr> <tr> <td data-bbox="263 1411 534 1456">Penalty (Rs.)</td> <td data-bbox="534 1411 805 1456">4,61,268/-</td> </tr> </tbody> </table>	Dealer Name / TIN	Crescent Woods 32111077184	Year	2009-10	Turnover escaped (Rs.)	24,27,272/-	Tax plus interest (Rs.)	3,50,564/-	Penalty (Rs.)	4,61,268/-		<p>As per audit report Rs. 94,28,464.00 Sales as per Annual Return <u>Rs. 70,01,192.00</u> Rs. 24,27,272.00</p> <p>As per manufacturing account Rs. 17,97,269.00 Timber waste transfer</p> <p>Balance turnover Rs. 6,30,003.00</p>
Dealer Name / TIN	Crescent Woods 32111077184											
Year	2009-10											
Turnover escaped (Rs.)	24,27,272/-											
Tax plus interest (Rs.)	3,50,564/-											
Penalty (Rs.)	4,61,268/-											
		<p>As per revised audit report</p> <p>Sale declared by the dealer Rs. 76,31,195.00 As per Annual Return 2009-10 Rs. 70,01,192.00 Balance turnover Rs. 6,30,003.00</p> <p>Balance turnover of Rs. 6,30,003/- was already assessed and the dealer paid tax accordingly as per Order dated 23.12.2011.</p>										

Para No.	Gist of the case	Present position
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.59 M/s Roshini Traders. <u>32111236192 (2009-2010)</u> <u>CTO, Vadakara</u></p> <p>The assessment has been completed u/s. 25(1) of the KVAT Act as per order dated 31-03-2012 assessing the incentive Rs 2,41,512/- received by the dealer and the purchase turnover of Rs. 3,02,999/- not reported in the return filed by adding GP @ 10% and created an additional demand of Rs., 22,253 /- cess Rs. 212/- interest Rs. 5,392/- as pointed out in audit report. The demand has been realised as per chalan No. 145/19-10-2012.</p>
	Dealer Name / TIN	Roshini Traders 32111236192
	Year	2009-10
	Turnover escaped (Rs.)	2184838
	Tax plus interest (Rs.)	265599
	Penalty (Rs.)	349473

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1" data-bbox="268 1115 794 1460"> <tr> <td data-bbox="268 1115 531 1189">Dealer Name / TIN</td> <td data-bbox="539 1115 794 1189">Mukkom Tyres 32110759282</td> </tr> <tr> <td data-bbox="268 1200 531 1238">Year</td> <td data-bbox="539 1200 794 1238">2010-11</td> </tr> <tr> <td data-bbox="268 1249 531 1323">Turnover escaped (Rs.)</td> <td data-bbox="539 1249 794 1323">11,00,337/-</td> </tr> <tr> <td data-bbox="268 1335 531 1408">Tax plus interest (Rs.)</td> <td data-bbox="539 1335 794 1408">1,94,485/-</td> </tr> <tr> <td data-bbox="268 1420 531 1458">Penalty (Rs.)</td> <td data-bbox="539 1420 794 1458">2,77,835/-</td> </tr> </table>	Dealer Name / TIN	Mukkom Tyres 32110759282	Year	2010-11	Turnover escaped (Rs.)	11,00,337/-	Tax plus interest (Rs.)	1,94,485/-	Penalty (Rs.)	2,77,835/-	<p>Sl.No.60 <u>Mukkom Tyres</u> <u>32110759282 (2010-2011)</u> <u>CTO.II Circle, Kozhikode</u></p> <p>The difference in sales turnover amounting to Rs.11,00,337/- between the annual return and audited statements was assessed to tax by the Assistant Commissioner, Special Circle, Kozhikode as per order dated 25-10-2012. Purchase and sales suppression was also detected in KVATIS Scrutiny, which was also assessed as per the order, demanding Rs.5,09,797/- towards tax and Rs.26,394/- towards interest. The dealer filed appeal against this order. The Deputy Commissioner (Appeals) modified the assessment with direction to delete the addition of sales turnover amounting to Rs.3,86,572/-. The assessment was modified accordingly as per order dated 7-1-2014 of the Assistant Commissioner, special circle II, Kozhikode as per which the demand was Rs.1,66,411/- and interest Rs.23,298/- after adjusting payments already made against the original order. This amount was paid as per chalan No.401 dated 8-3-2014. No amount is outstanding as per the modified order.</p>
Dealer Name / TIN	Mukkom Tyres 32110759282											
Year	2010-11											
Turnover escaped (Rs.)	11,00,337/-											
Tax plus interest (Rs.)	1,94,485/-											
Penalty (Rs.)	2,77,835/-											

Para No.	Gist of the case	Present position
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.61 <u>Manasi Initiatives</u> <u>32110921855 (2010-2011)</u> <u>CTO, IV Circle, Kozhikode</u></p> <p>The defect pointed out is that as per 13 &13A filed during the year 2010-2011 the total sales turnover reported by the dealer was Rs.6,51,34,259/- but in the annual return sales turnover declared is Rs.6,20,79,096/- only. Hence there is a Turnover suppression of Rs.30,15,163/- detected. When this fact noticed the assessing officer issued a notice on 17-9-2012 to the dealer to assess the turnover. In the reply the dealer stated that the difference happened due to the non-inclusion of discounts allowed in the sale bill. After verification of the sale bills the assessing officer convinced that the discounts shown in the bills issued will not form part of the turnover and completed the assessment after accepting the turnover in the return filed.</p>
Dealer Name / TIN	Manasi Initiatives 32110921855	
Year	2010-11	
Turnover escaped (Rs.)	30,55,163/-	
Tax plus interest (Rs.)	2,44,979/-	
Penalty (Rs.)	3,49,969/-	

Para No.	Gist of the case	Present position
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No.62 Sarasons Traders <u>32110954345 (2010-11)</u> <u>CTO, IV Circle, Kozhikode</u></p> <p>The audit objection is related to short levy of tax due to short reporting of sales turnover. A pre-assessment notice was issued to the dealer by proposing to assess the discount received Rs.18,51,893/- on 6-12-12. Against the proposal the dealer filed reply clarifying that the disputing amount of Rs.18,51,893/- received from M/s Hindustan Uni lever Ltd without disturbing the input tax credit and they had claimed any deduction from their total turnover in respect of trade discount scheme offered to them. The dealer had also produced proof of the claim. The assessing authority allow the claim and drop the proposal. Hence there is no short levy of tax due to short reporting of sales turnover in this case.</p>
Dealer Name / TIN	Sarasons Traders 32110954345	
Year	2010-11	
Turnover escaped (Rs.)	18,51,893/-	
Tax plus interest (Rs.)	3,11,934/-	
Penalty (Rs.)	4,45,620/-	

Para No.	Gist of the case	Present position										
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p>	<p>Sl.No. 63 <u>Future Retail Limited</u> <u>32090217952(2009-10)</u> <u>CTO, Special Circle, Palakkad</u></p> <p>The Accountant General has pointed out that, there was escaped turnover of Rs.17,17,28,441/- in respect of the dealer for the year 2009-10 on account of short reporting of sales turnover. The above dealer had declared total sales turnover of Rs.98,65,56,122/- for the year 2009-10 whereas the total sales turnover accounted in the Audit Report is Rs.1,15,82,84,563/-. There was a short reporting of sales turnover of Rs.17,17,28,441/- and the short levy was worked out to Rs.1,69,86,577/-.</p> <p>In this regard it is submitted that during the year 2009-10 the company sold the retail sale business in the name of 'Big Bazar' as a whole to Future Value Retail Ltd having TIN 32090555709, a dealer under the jurisdiction, and stopped the retail business w.e.f. 31-12-2009. The closing stock as on the date valued for Rs.17,17,28,441/- had been wholly transferred to Future Value Retail Ltd. under agreement.</p> <p>Verification of the Audit Report of the Future Value Retail Limited, it is found that the dealer had accounted it as purchase in the trading account. As such there is no escapement of turnover in this case. There is no liability to pay tax on the sale of business as a whole. As per the judgment in Deputy Commissioner V. DAT Pathi, dated 12-06-1985 Monsanto Chemicals of India (P) Ltd. V. State of Tamilnadu dated 15-10-1981, the Hon'ble High Court had held that the sale of business as a whole is not liable to tax. In the light of the above, there is no escapement of the turnover.</p>										
	<table border="1"> <tr> <td data-bbox="217 1310 432 1429">Dealer Name / TIN</td> <td data-bbox="432 1310 643 1429">Future Retail Limited 32090217952</td> </tr> <tr> <td data-bbox="217 1429 432 1480">Year</td> <td data-bbox="432 1429 643 1480">2009-10</td> </tr> <tr> <td data-bbox="217 1480 432 1559">Turnover escaped (Rs.)</td> <td data-bbox="432 1480 643 1559">171728441</td> </tr> <tr> <td data-bbox="217 1559 432 1637">Tax plus interest (Rs.)</td> <td data-bbox="432 1559 643 1637">18368548</td> </tr> <tr> <td data-bbox="217 1637 432 1693">Penalty</td> <td data-bbox="432 1637 643 1693">24169141</td> </tr> </table>	Dealer Name / TIN	Future Retail Limited 32090217952	Year	2009-10	Turnover escaped (Rs.)	171728441	Tax plus interest (Rs.)	18368548	Penalty	24169141	
Dealer Name / TIN	Future Retail Limited 32090217952											
Year	2009-10											
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Para No.	Gist of the case	Present position																									
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Lord Krishna Associates 32010612952</td> </tr> <tr> <td>Year</td> <td>2011-12</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>40,21,590/-</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>2,13,798/-</td> </tr> <tr> <td>Penalty(Rs.)</td> <td>3,34,059/-</td> </tr> </table>	Dealer Name / TIN	Lord Krishna Associates 32010612952	Year	2011-12	Turnover escaped (Rs.)	40,21,590/-	Tax plus interest (Rs.)	2,13,798/-	Penalty(Rs.)	3,34,059/-	<p>Sl.No.64 Lord Krishna Associates 32010612952 (2011-12) CTO, I Circle, Thiruvananthapuram</p> <p>The escaped turnover in respect of Subash, Lord Krishna Associates, Thiruvananthapuram for the year 2011-12 for Rs.40,15,889/- has been assessed to tax vide order No32010612952/11-12 dated 13-11-2013. Additional demand created for Rs.1,99,655/- had been collected in 5 instalments detailed below:-</p> <table border="1"> <tr> <td>I instalment</td> <td>Rs.25000/-</td> <td>Cheque No.433216 dtd 28-11-2013</td> </tr> <tr> <td>II instalment</td> <td>Rs.52,600/-</td> <td>Cheque No.433220 dtd 18-12-2013</td> </tr> <tr> <td>III Instalment</td> <td>Rs.38,800/-</td> <td>Cheque No.433221 dtd 20-01-2014.</td> </tr> <tr> <td>IV Instalment</td> <td>Rs.38,800/-</td> <td>Cheque No.433222 dtd 26-02-2014</td> </tr> <tr> <td>V Instalment</td> <td>Rs.48,700/-</td> <td>Cheque No.433224 dtd 28-03-2014</td> </tr> </table> <p>Thus the dealer had remitted the entire amount and no dues are outstanding against the dealer.</p>	I instalment	Rs.25000/-	Cheque No.433216 dtd 28-11-2013	II instalment	Rs.52,600/-	Cheque No.433220 dtd 18-12-2013	III Instalment	Rs.38,800/-	Cheque No.433221 dtd 20-01-2014.	IV Instalment	Rs.38,800/-	Cheque No.433222 dtd 26-02-2014	V Instalment	Rs.48,700/-	Cheque No.433224 dtd 28-03-2014
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Dealer Name / TIN												
Year												
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bills of export sales will be realized and the exchange rate of money shall vary from the date of shipment to actual realisation of cash. Hence the sales turnover will be calculated accordingly and hence in the Audit Report total sales is Rs.20,73,14,839/- only. Certain items sold shall be rejected and these being perishable items are not usable again and are damaged and is accounted as sales returns. In the monthly return these sales return were not accounted. The difference in local sales on account of sales returns is for Rs.13,81,124/- for the year 2010-11. The dealer has declared this amount in the P&L Statement which was filed along with the Audit Report. Only at a later stage the actual amount of sales return shall be calculated in the case of this type of business of export of shrimps and perishable food items. These sales returns were accounted in the net sales at the time of filing of the Audit Report with P&L statement in 13 & 13A. Considering the reply the draft para may be settled.

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2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Neha Leather 32071753001</td> </tr> <tr> <td>Year</td> <td>2011-12</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>10224419</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>1583168</td> </tr> <tr> <td>Penalty(Rs.)</td> <td>2473701</td> </tr> </table>	Dealer Name / TIN	Neha Leather 32071753001	Year	2011-12	Turnover escaped (Rs.)	10224419	Tax plus interest (Rs.)	1583168	Penalty(Rs.)	2473701	<p>Sl.No.69 Neha Leather 32071753001 (2011-12) CTO, Special Circle II, Ernakulam</p> <p>Based on audit objection, assessment for the year 2011-12 relating to the dealer M/s Neha Leather has been completed vide Order No.32071753001/11-12 dated 30-04-2014 by assessing the escaped sales turnover as well as other irregularities noticed. The additional demand created according to the above order is given as follows:-</p> <p>Tax due :Rs.19,97,477.00 Interest :Rs. 4,99,369.00 :Rs. 24,96,847.00</p> <p>The demand is under RR proceedings vide RRC No.E39/2017-18 dated 05.04.2017</p>
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difference U/S 25(1) of the KVAT Act 2003.

In response to the notice, the dealer filed objections against the proposals. In the annual return the dealer showed sales value deducting cash discount allowed in bills. But in audit report, sale value happened to be inclusive of cash discount. Assessee produced a certificate issued by the auditor in this regard. So the claim was accepted and proposals to assess under this head was dropped. The claim of cash discount received Rs.57,93,076/- were verified. The cash discount received shown in the profit and loss account is received through bills. Amount before discount is accounted in purchase and hence cash discount is accounted under the head cash discount received. Assessee claimed input tax only for net purchase value. Hence this amount is not assessable and the proposal in this regard was dropped. The trade discount Rs.78,72,268/- and incentive Rs.6,33,135/- were assessed vide assessment order dated 12-10-2012. The difference between the returns and audited statements relating to discounts and incentives can be disclosed only in audited statements. The assessing authority verified and completed the assessment after verification of the documents produced and allowed cash discounts and local sales difference and the remaining portion of turnover was assessed to tax. In the instant case, the entire alleged differential turnover were reflected in the audited statements. So there is no suppression in turnover considering the accounting practice. The tax due on the above turnover were assessed with interest and the dealer paid the entire demand of Rs.1,78,836/- as per chalan No.32 dated 29-12-2012. Hence there is no loss of revenue involved at present due to the regularisation of defects on revising the assessment for the year 2009-10 and the remittance of dues by the dealer.

On coming to the penalty aspect, it is reported that the penalty need not be imposed on the dealer in the present case. The entire differential turnover in the return were properly accounted in the audited accounts of the dealer. The dealer has paid the entire demand raised as per the assessment order with interest.

For the reasons stated above, there is no short levy of tax.



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2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases.</p>	<p>Sl.No. 71 Western IT Distributors Sheeja 32071885402 (2010-11) CTO, IV Circle, Ernakulam</p> <p>The dealer Smt. Sheeja Jose, M/s Western IT Distributors, Ernakulam is an assessee engaged in the business of IT and electronic products. The dealer conceded a total and taxable turnover of Rs.35,25,29,667/- for the assessment year 2010-11 and self assessed to tax under section 21 of the KVAT Act,2003.</p> <p>During local audit, the AG observed that the dealer has sold goods at a lower price than the purchase value and resulted in a gross loss of Rs.20,06,910/- as detailed below:-</p> <table border="0"> <tr> <td>Opening stock</td> <td>:Rs. 1,27,33,662.00</td> </tr> <tr> <td>Purchases less return</td> <td>:Rs.35,62,38,191.00</td> </tr> <tr> <td>Freight</td> <td>:Rs. 2,48,266.00</td> </tr> <tr> <td></td> <td>:Rs.1,45,42,145.00</td> </tr> <tr> <td>Less Closing stock</td> <td>:Rs.35,46,77,704.00</td> </tr> <tr> <td>Cost of goods sold</td> <td>:Rs.30,84,91,046.00</td> </tr> <tr> <td>Sale value conceded</td> <td>:Rs.35,26,70,794.00</td> </tr> <tr> <td>Gross loss</td> <td>:Rs.20,06,910.00</td> </tr> </table> <p>In order to make good the loss, the seller allowed discount to the dealer which forms part of the turnover liable to be assessed to tax. Verification of annual return and audited statement revealed the following.</p> <table border="1"> <thead> <tr> <th>Turnover</th> <th>Annual Return</th> <th>Audited Report</th> </tr> </thead> <tbody> <tr> <td>Local sales @4%</td> <td>34,59,72,867.26</td> <td>34,63,80,599.46</td> </tr> <tr> <td>(-) Sales return</td> <td></td> <td>5,59,912.00</td> </tr> <tr> <td></td> <td>34,59,72,867.26</td> <td>34,58,20,687.38</td> </tr> <tr> <td>Local sales @12.5%</td> <td>64,66,800.33</td> <td>64,62,276.43</td> </tr> <tr> <td>Inter-state</td> <td>90,000.00</td> <td>90,000.00</td> </tr> <tr> <td></td> <td>35,25,29,667.59</td> <td></td> </tr> <tr> <td>Export</td> <td></td> <td>2,97,830.00</td> </tr> <tr> <td>Trade discount received</td> <td></td> <td>88,40,564.10</td> </tr> <tr> <td>Cash discount received</td> <td></td> <td>56,00,645.52</td> </tr> <tr> <td>Incentive received</td> <td></td> <td>4,16,583.86</td> </tr> </tbody> </table>	Opening stock	:Rs. 1,27,33,662.00	Purchases less return	:Rs.35,62,38,191.00	Freight	:Rs. 2,48,266.00		:Rs.1,45,42,145.00	Less Closing stock	:Rs.35,46,77,704.00	Cost of goods sold	:Rs.30,84,91,046.00	Sale value conceded	:Rs.35,26,70,794.00	Gross loss	:Rs.20,06,910.00	Turnover	Annual Return	Audited Report	Local sales @4%	34,59,72,867.26	34,63,80,599.46	(-) Sales return		5,59,912.00		34,59,72,867.26	34,58,20,687.38	Local sales @12.5%	64,66,800.33	64,62,276.43	Inter-state	90,000.00	90,000.00		35,25,29,667.59		Export		2,97,830.00	Trade discount received		88,40,564.10	Cash discount received		56,00,645.52	Incentive received		4,16,583.86
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As per audit report in form No.13A, the trade discount of Rs.88,40,564.10 were shown as others. For the above reasons and since the dealer was in the receipt of trade discount, cash discount and incentive, the assessing authority issued notice to assess the said incomes under section 25(1) of the KVAT Act 2003. As per the balance sheet the tax payable by the dealer is Rs.3,10,366/- also directed to be remitted with interest, was also included in the 25(1) notice.

In response to the notice, the dealer filed their objections against the proposals. The reply was examined by the assessing authority.

The claim of cash discount received for Rs.56,00,645/- for prompt payment through invoice were allowed since the dealer claimed input tax only after deducting the cash discount. Regarding the tax payable as per the balance sheet, it was submitted that it was a provisional entry for paying tax against trade discount received for the financial year 2010-11 and also for the payment of tax for March 2011. As the assessee paid tax for March 2011 in the return of April 2011 and trade discount are assessed in the order, that amount was deleted from the assessment. The trade discount of Rs.88,40,564/- and incentive Rs.4,16,583/- were assessed vide assessment order dated 31-12-2012. The difference between the returns and audited statements relating to discounts and incentives can be disclosed only in audited statements. The assessing authority verified and completed the assessment after verification of the documents produced and allowed cash discount and remaining portion of turnover was assessed to tax. In the instant case, the entire alleged differential turnover was reflected in the audited statements, so there is no suppression in turnover considering the accounting practices. The tax due on the above turnover were assessed with interest and the dealer paid the entire demand of Rs.4,67,860/- as per Chalan No.346/01.03.2013- Rs.1,00,000/-, No.413/30.3.2013 Rs.2,00,000/- and No.68/12-04-2013 Rs.1,67,860/-. Hence there is no loss of revenue involved at present due to regularisation of defects on revising the assessment for the year 2010-11 and the remittance of dues by the dealer.

In the present case, penalty need not be imposed on the dealer. The entire difference turnover in the return were properly accounted in the audited statement of the dealer. Moreover the trade discounts and other incentives can only be disclosed in the audited

		<p>statements. It cannot be disclosed in the returns. Since the dealer has paid the entire demand raised as per the assessment order, with interest, penalty need not be imposed on the dealer .</p> <p>For the reasons stated above, there is no short levy of tax at present. The audit objection regarding the revenue loss and imposition of penalty may please be dropped.</p>
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Para No.	Gist of the case	Present position																														
2.4(b)	<p>Audit compared the aggregate figures of sales and stock transfer as per returns filed by the dealers with that of the certified statement of particulars filed in Form No.13A enclosed with audit certificate and found that in 72 cases in 31 assessment circles, aggregate of sales turnover and stock transfer conceded in return was less than that in Form No.13A. Non-compliance of provisions of Section 42(2) was not detected by the assessing officers and same was not assessed to tax under Section 25. The resultant short payment of tax including cess and interest worked out to Rs.22.09 crore. Penalty of Rs.29.93 crore was also leviable in the above cases .</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Malhotra Marketing Private Limited 32071893704</td> </tr> <tr> <td>Year</td> <td>2009-10</td> </tr> <tr> <td>Turnover escaped (Rs.)</td> <td>3120508</td> </tr> <tr> <td>Tax plus interest (Rs.)</td> <td>598825</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>787928</td> </tr> </table>	Dealer Name / TIN	Malhotra Marketing Private Limited 32071893704	Year	2009-10	Turnover escaped (Rs.)	3120508	Tax plus interest (Rs.)	598825	Penalty (Rs.)	787928	<p>Sl.No.72 Malhotra Marketing Private Ltd. 32071893704 (2009-10) CTO, IV Circle, Ernakulam M/s Malhotra Marketing Pvt.Ltd, 39/1403, Chittoor Road, Valanjambalam, Ernakulam is a registered dealer dealing in items such as shaving razors, shaving blades, shaving lotion, cream, brushes and Medicines.</p> <p>The Accountant General has pointed out turnover escapement to the tune of Rs.31,20,508/- or the year 2009-10 as detailed below:-</p> <p>Total turnover as per accounts :Rs.6,06,11,442.00 Total turnover conceded in the return :Rs.5,74,90,934.00 Turnover Escaped :Rs. 31,20,508.00</p> <p>The total turnover returned and as per form 13 ,13A is as under:-</p> <table border="1"> <thead> <tr> <th></th> <th>Turnover as per return</th> <th>Turnover as per 13, 13A</th> <th>Difference</th> </tr> </thead> <tbody> <tr> <td>Local Sale</td> <td>Rs.5,74,33,354</td> <td>Rs. 5,74,33,354</td> <td>NIL</td> </tr> <tr> <td>Stock transfer out</td> <td>Rs. 57,580</td> <td>Rs.55,344</td> <td>+Rs.2,236</td> </tr> <tr> <td>Others</td> <td>-</td> <td>Rs.31,22,744</td> <td>- Rs.31,22,744</td> </tr> <tr> <td>Total</td> <td>Rs.5,74,90,934</td> <td>Rs.6,06,11,442</td> <td>Rs.31,20,508</td> </tr> </tbody> </table> <p>The difference in value is analysed as under:-</p> <ol style="list-style-type: none"> 1. Stock transfer out Rs.2,236/- As per the annual return the dealer returned Rs.57,580/- as value of stock transfer out and filed form F declaration. The value returned is inclusive of tax with cess @4%. The value conceded in form 13, 13A as Rs.55,344/- is excluding the tax element and have the difference. 2. Others -Rs.31,22,744/- Verification of the trading and profit and loss account and annexures attached to audit report revealed that, this amount represent the value of free quantity supplied by the dealer as sales promotion items such as shaving razor, blade, cream, lotion and brushes which were issued to them for free supply by their suppliers M/s Laser Shaving Products (P) Ltd, Ernakulam with TIN 32070394912. <p>On verification of the purchase bills as well as sales bills of the above items , it is noticed that the quantity given as free supply has</p>		Turnover as per return	Turnover as per 13, 13A	Difference	Local Sale	Rs.5,74,33,354	Rs. 5,74,33,354	NIL	Stock transfer out	Rs. 57,580	Rs.55,344	+Rs.2,236	Others	-	Rs.31,22,744	- Rs.31,22,744	Total	Rs.5,74,90,934	Rs.6,06,11,442	Rs.31,20,508
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been separately shown in the bills with NIL value.

Since the dealer has shown value against the free quantity received and supplied, the assessing authority enquired the reasons for showing the value and in reply the dealer has stated that they are generating the value at the time of receipt of free quantity as well as issue of the same at the rate, the purchase/ sale is made and is only to know the total value of free quantity received and issued during the year, and no consideration in this regard is paid or received. The dealer has also shown the value on free quantity received in the 13 & 13A.

In this regard, the assessing authority reported that on verification of the details regarding the free supply, it is noticed that as per annexure K&N to trading and profit and loss account, the total quantity received for free supply was Rs.63,907.38 packets with value Rs.31,22,744.07. This shows that, the dealer has effected free supply of Rs.3196.92 packets for Rs.5,90,533/- in excess than what was received for free supply.

Since this excess free supply is made from the purchase on which ITC has been availed, the input tax credit and cess availed to the tune of Rs.74,577/- has been disallowed and added back to the dues along with interest of Rs.14,166/- as per this office proceedings dated 9-11-2011 and the assessee remitted the above tax dues as per chalan No.375 dated 11-01-2012.

On an analysis of the facts it can be seen that since the free supply received and issued were effected without any consideration paid or received and the input tax claim with cess and interest on the excess free supply were rejected and the assessee settled the dues, the observation of the Accountant General is not sustainable

Para No.	Gist of the case	Present position
2.5.1(a)	<p>M/s. Stanes Trading Co., was a dealer in ingredients for bakery products which included various types of margarine. As per the purchase invoices filed by the assessee they had purchased bakery vanaspathy which is nothing but margarine for Rs.46.73 lakhs, Rs.86.71 lakhs and Rs.1.26 crore during 2008-09, 2009-10 and 2010-11 respectively. The assessee sold this during the respective years along with the other bakery products. Audit, found that the assessee included the sales turnover of margarine, which is taxable at 12.5 per cent, in the turnover taxable at four per cent. The assessing authority did not complete the assessment rectifying the defect. This resulted in short levy of tax, cess and interest amounting to Rs.30.33 lakhs.</p>	<p>2008-09 Assessment was finalized vide order dtd.17-10-2011 assessing the sales turnover of margarine @ 12.5% creating demand of Rs.4,97,939/-. The assessee preferred appeal before the Deputy Commissioner(Appeals), Thiruvananthapuram. As per order dated 12.12.2011, the appellate authority granted conditional stay on remitting 50% and accordingly the dealer remitted Rs.2,48,970/-. Subsequently, the appellate authority disposed the case vide KVATA 268/2011 dtd.16-07-2012 directing the assessing authority to re-examine the case by verifying the books of accounts only after giving opportunity for personal hearing. Accordingly modified order was issued vide order dtd.03-02-2014 creating additional demand of Rs.6,09,020/-. Meanwhile the assessee filed WP(C) before the Hon'ble High Court of Kerala vide WP(C) No. 28274/2014(H), but the Hon'ble Court dismissed the case in favour of department. The demand was reported to Revenue Recovery proceedings before the District Collector, Thiruvananthapuram vide RRC No. 2016/6024/01 dated 05.04.2016 which was still pending before the revenue recovery authorities without effecting payment of tax dues.</p> <p>2009-10 The commodity margarine was assessed @ 12.5% vide order dtd.25-06-2013 creating additional demand of Rs.10,83,765/-. Thereafter, the assessee filed WP(C) before the Hon'ble High Court of Kerala and obtained order from the Hon'ble Court in W.P.(C) No.24063/13 dated 03.10.2013 directing the appellate authority to dispose the appeal within two months. DC (Appeals) vide KVATA-151/13 dtd.13-12-2013 dismissed the appeal. The demand was reported to Revenue Recovery proceedings before the District Collector, Tvpm. Having received the appellate order, the appellant preferred appeal to the Hon'ble Tribunal, Additional Bench, Thiruvananthapuram. The appellate authority heard the case as per law and disposed the case in favour of the department. The revenue recovery proceedings are still pending before the District Collector even though repeated reminders furnished to the concerned revenue authorities.</p>

2010-11

The commodity margarine was assessed @ 12.5% vide order dtd.27-07-2013 creating additional demand of Rs.14,53,154/-. Thereafter, the assessee file WP(C) before the Hon'ble High Court of Kerala and obtained order from the Hon'ble Court in W.P.(C) No.24089/13 dated 03.10.2013 directing the appellate authority to dispose the appeal within two months. In obedience to the Hon'ble High Court of Kerala, the appellate authority examine the case and dismissed in favour of the department. The demand was reported to Revenue Recovery proceedings before the District Collector, Tvm. Vide RRC No. 2016/6027/01 dated 06.04.2016. Having received the appellate order, the appellant preferred appeal to the Hon'ble Tribunal, Additional Bench, Thiruvananthapuram. The appellate authority heard the case as per law and disposed the case in favour of the department. The revenue recovery proceedings are still pending before the District Collector even though repeated reminders furnished to the concerned revenue authorities.

Para No.	Gist of the case	Present position
2.5.1(b)	<p>M/s. Giby Traders, Ernakulam was a dealer in Bakery products , Margarine, Edible Oil etc. During 2011-12 they filed annual return conceding turnover of ₹. 3.85 crore taxable at 4%. Audit scrutinised the purchase invoice of the assessee and found that during the year they purchased margarine for ₹. 2.15 crore. However, corresponding sales turnover was not assessed to tax at correct rate of 12.5% . The assessing authority also did not assess the tax at correct rate. Application of incorrect rate of the tax resulted in short levy of tax, cess and interest of ₹. 22.67 lakh.</p>	<p>Assessment in respect of M/s. Giby Traders, Ernakulam for the assessment years 2011-12 was completed vide order dated 30.10.2013 creating an additional demand of ₹. 22,45,082/-. Against this assessment order, the assessee filed appeal before the Deputy Commissioner(A), Ernakulam and the appellate authority dismissed the appeal vide Order No. KVATA- 179, 180, 181/2014 dated 18-06-2014. Revenue recovery steps have been initiated for realizing ₹. 23,02,648/- (including interest) vide RRC No. A2/75/13-14 dated 21-01-2014 by Assistant Commissioner (Assmt.), Special Circle-I, Ernakulam.</p> <p>The assessee filed appeal before the Hon'ble KVAT Appellate Tribunal, Ekm. In a common order vide TA(VAT Nos. 495,496 & 497/2014 dated 29.12.2015 for the years 2009-10, 2010-11 & 2011-12, the Hon'ble Tribunal held that by virtue of Entry 64(8) of SRO 82/06 and the description of the commodity with HSN code 1517.10, all margarine except liquid margarine are liable to attract higher rate of tax. Hon'ble Tribunal find no impropriety in respect of levy of tax relating to sales turnover of margarine @ 12.5% for the year 2011-12.</p> <p>The OT revision filed by the assessee against the order of the KVATA Tribunal, Ekm was rejected by the Hon'ble High Court of Kerala vide order No. OTR No. 132/16 dated 04.02.2019 of the Hon'ble High Court of Kerala answering the question in favour of the revenue with the observation that margarine is separately classified under SRO 82/06 at various rates for subject years at higher percentages than that of edible oil. In the order, the Hon'ble HC of Kerala referred the decision of the Hon'ble Supreme Court of India in SLP No. 29223/14 dated 30.09.2016 which dismissed the Special Leave Petition filed by Soudamini Sivadas, Proprietrix, SS Traders vs. State of Kerala and others on the same issue.</p> <p>In these circumstances the assessee is liable to pay the demand created for the year 2011-12 which is now under revenue recovery.</p>

Para No.	Gist of the case	Present position																																											
2.5.1(c)	<p>The audit scrutiny at the Office of the Assistant Commissioner, Special Circle (Produce), Mattancherry revealed certain irregularities in respect of M/s. Ruchi Soya Industries Ltd., Cochin, a dealer engaged in trading of edible oils, bakery products etc., leading to a short levy of tax due to application of incorrect rate of tax.</p> <p>During the period from 2006-07 to 2011-12 (six years), the assessee self assessed to tax the sales turnover edible oils other than coconut oil amounting to Rs.17.26 crore at four per cent. Audit scrutiny found that this turnover included sales turnover of bakery vanaspathy amounting to Rs.17.26 crore which is nothing but margarine. Though margarine was taxable at 12.5 per cent its sales turnover was assessed at four per cent only. The assessing authority also did not assess tax at correct rate. This resulted in short levy of tax, cess and interest of Rs.2.12 crore.</p>	<p>Based on the audit objection, assessments for the years 2006-07 to 2011-12 were completed U/s.25(1) of the KVAT Act by the Assistant Commissioner(A), Special Circle (Produce), Mattancherry and made good the short levy of tax pointed out by the Accountant General vide orders mentioned below.</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Date of Assessment Order</th> </tr> </thead> <tbody> <tr> <td>2006-07</td> <td>28.03.2014</td> </tr> <tr> <td>2007-08</td> <td>28.03.2014</td> </tr> <tr> <td>2008-09</td> <td>19.02.2014</td> </tr> <tr> <td>2009-10</td> <td>10.03.2014</td> </tr> <tr> <td>2010-11</td> <td>06.10.2014</td> </tr> <tr> <td>2011-12</td> <td>31.10.2013</td> </tr> </tbody> </table> <p>The details of tax levied and collected are given below:</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Turnover of vanaspathy assessed at higher rate of 12.5%</th> <th>Balance tax with cess and interest due including other defects (after deducting the amount already paid)</th> <th>Amount collected</th> <th>Chalan No. Date</th> </tr> </thead> <tbody> <tr> <td>2006-07</td> <td>5,94,48,616.00</td> <td>84,59,900.00</td> <td>84,59,903.00</td> <td>148 / 17.05.14 130 / 29.08.14 151/31.10.15</td> </tr> <tr> <td>2007-08</td> <td>2,78,16,268.00</td> <td>17,92,860.00</td> <td>17,92,860.00</td> <td>150 / 17.05.14 131 / 30.8.14 7/03.11.15</td> </tr> <tr> <td>2008-09</td> <td>6,64,49,614.00</td> <td>26,22,655.00</td> <td>26,22,656.00</td> <td>252 /13.03.14 132 / 30.8.14 155/03.11.15</td> </tr> <tr> <td>2009</td> <td>2,17,15,832.00</td> <td>26,72,463.00</td> <td>26,72,463.00</td> <td>80 / 17.5.14</td> </tr> </tbody> </table>					Year	Date of Assessment Order	2006-07	28.03.2014	2007-08	28.03.2014	2008-09	19.02.2014	2009-10	10.03.2014	2010-11	06.10.2014	2011-12	31.10.2013	Year	Turnover of vanaspathy assessed at higher rate of 12.5%	Balance tax with cess and interest due including other defects (after deducting the amount already paid)	Amount collected	Chalan No. Date	2006-07	5,94,48,616.00	84,59,900.00	84,59,903.00	148 / 17.05.14 130 / 29.08.14 151/31.10.15	2007-08	2,78,16,268.00	17,92,860.00	17,92,860.00	150 / 17.05.14 131 / 30.8.14 7/03.11.15	2008-09	6,64,49,614.00	26,22,655.00	26,22,656.00	252 /13.03.14 132 / 30.8.14 155/03.11.15	2009	2,17,15,832.00	26,72,463.00	26,72,463.00	80 / 17.5.14
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		-10				
		2010	3,47,96,181.0	28,33,453.00	28,33,453.00	16 / 30.10.14
		-11				
		2011	38,71,596.00	31,39,215.00	31,39,215.00	S-141/24.12.13
		-12				
		Total		2,15,20,546.00	2,15,20,550.00	
Hence there is no arrear outstanding in this case.						

Para No.	Gist of the case	Present position																				
2.5.1 (d)	<p>M/s.SSD Oil Mills Company Ltd, Cochin was a dealer in edible oils, margarine, bakery products etc. Audit found that the assessee self assessed the tax on their sale turnover of margarine for Rs.3.03 crore and Rs.3.20 crore for the year 2010-11 and 2011-12 at four per cent instead of the correct rate of 12.5 percent. The application of incorrect rate of tax resulted in short levy of tax, cess and interest of Rs.65.83 lakh</p>	<p>On the basis of the findings of the Accountant General, the assessment for the years 2010-11 and 2011-12 have been completed as follows:-</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Date of Order</th> <th>Tax (in Rs.)</th> <th>Interest (in Rs.)</th> <th>Total (in Rs.)</th> </tr> </thead> <tbody> <tr> <td>10-11</td> <td>29-03-2014</td> <td>26,72,650.00</td> <td>9,62,154.00</td> <td>36,34,804</td> </tr> <tr> <td>11-12</td> <td>29-03-2014</td> <td>28,11,791.00</td> <td>6,74,830.00</td> <td>34,86,621</td> </tr> <tr> <td colspan="4">TOTAL</td> <td>71,21,425</td> </tr> </tbody> </table> <p>RR proceedings have been initiated vide RRC No.48/14 and 49/14 dated 12.06.14 for the assessment years 2010-11 and 2011-12 respectively and later RRC was issued to District Collector, Ekm. Vide RRC No. 19/15-16 dated 09.09.2015.</p> <p>For the year 2010-11, the assessee opted amnesty scheme 2017. The whole interest amount is waived off and the tax paid in four installments. The challan details are given below:</p> <p>Rs. 5,26,180/- - KL007026392201718M/16.11.2017 Rs. 6,68,162/- - KL007622345201718M/16.11.2017 Rs. 6,68,162/- - KL008641680201718M/27.12.2017 Rs. 8,10,146/- - KL008973531201718M/27.12.2017</p> <p>For the year 2011-12, the dealer opted amnesty scheme 2019. The dealer completed the payments of tax in installment as shown below:</p> <p>Rs. 2,58,544/- KL006289477201920M/29.08.2019 Rs. 2,58,544/- KL07683537201920M/03.10.2019 Rs. 2,58,544/- KL009393823201920M/13.11.2019 Rs. 2,58,544/- KL01287477201920M/16.01.2020</p>	Year	Date of Order	Tax (in Rs.)	Interest (in Rs.)	Total (in Rs.)	10-11	29-03-2014	26,72,650.00	9,62,154.00	36,34,804	11-12	29-03-2014	28,11,791.00	6,74,830.00	34,86,621	TOTAL				71,21,425
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Para No.	Gist of the case	Present position																											
2.5.1 (e)	<p>M/s. Manu Enterprises, Cochin was a dealer in edible oil, margarine etc. Though the assessee was dealing mainly with margarine, the sales turnover of margarine for ₹. 9.99 crore, ₹. 11.71 crore, ₹. 17.92 crore and ₹. 25.46 crore for the years 2008-09, 2009-10, 2010-11 and 2011-12 respectively were assessed to tax at 4% instead of 12.55 treating it as edible oil. The application of incorrect rate of tax resulted in short levy of tax, cess and interest of ₹. 7.27 crore.</p>	<p>Assessment records for the years 2008-09 to 2011-12 were verified in the light of the audit objection. The assessee deals with edible oil and margarine. But in the annual return, the entire turnover was conceded as edible oil. The audit has taken the entire amount towards margarine. On verification of books of accounts the turnover of margarine was ascertained as below:</p> <p style="text-align: center;">2008-09 : ₹. 5,09,32,140/ 2009-10 : ₹. 4,86,62,025/- 2010-11 : ₹. 7,11,11,200/- 2011-12 : ₹. 9,94,71,881/-</p> <p>Based on audit, assessments for the years 2008-09 to 2011-12 were completed and the turnover related to margarine was assessed to tax @ 12.5%. The Addl. demand created (differential rate of 8.5% with interest) was to the tune of ₹. 3,24,24,777/- as under:</p> <table border="1" data-bbox="694 1288 1433 1624"> <thead> <tr> <th>Sl. No</th> <th>Assmt. Year</th> <th>Assmt. Order No./Date</th> <th>Addl. demand created and int.</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>2008-09</td> <td>32071628305/31-12-13</td> <td>₹. 68,64,866</td> </tr> <tr> <td>2</td> <td>2009-10</td> <td>32071628305/21-12-13</td> <td>₹. 60,57,569</td> </tr> <tr> <td>3</td> <td>2010-11</td> <td>32081628305/30-06-14</td> <td>₹. 87,42,368</td> </tr> <tr> <td>4</td> <td>2011-12</td> <td>32071628305/04-08-14</td> <td>₹.1,07,59,974</td> </tr> <tr> <td colspan="3" style="text-align: center;">Total</td> <td>₹. 3,24,24,777</td> </tr> </tbody> </table> <p>The appeal preferred by the dealer before the Deputy Commissioner(Appeals) was dismissed. Aggrieved by this order, the dealer has preferred second appeal before the Hon'ble Tribunal. The Hon'ble Tribunal has upheld the findings of the DC(A), Ekm. and dismissed the appeal filed by the dealer.</p> <p>In the light of the above, the dealer remitted the arrears through the RR authority as follows:</p>				Sl. No	Assmt. Year	Assmt. Order No./Date	Addl. demand created and int.	1	2008-09	32071628305/31-12-13	₹. 68,64,866	2	2009-10	32071628305/21-12-13	₹. 60,57,569	3	2010-11	32081628305/30-06-14	₹. 87,42,368	4	2011-12	32071628305/04-08-14	₹.1,07,59,974	Total			₹. 3,24,24,777
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Total			₹. 3,24,24,777																										

Year	Amount paid	Challan No. & Date
2008-09	Rs. 79,14,546/-	44/23.12.2016
2009-10	Rs. 74,06,114/-	44/27.12.2016
2010-11	Rs. 1,17,29,717/-	2/27.12.2016
2011-12	Rs. 1,27,01,353/-	57/23.12.2016
		74/28.01.2017

Para No.	Gist of the case	Present position
2.5.2 (a)	<p>M/s Elite Foods Private Limited, Kochi was a manufacturer of bakery products selling goods under a brand name 'Elite' registered under Trade Mark Act, 1999. During 2011-12, they self assessed to tax their sales turnover of bakery products within the state for Rs.26.92 crore and inter-state sales without C form for Rs.12.31 lakh at four per cent instead of the correct rate of 12.5 per cent applicable to food products sold under brand name registered under the Trade Mark Act,1999. This resulted in short remittance of tax, cess and interest of Rs.2.76 crore.</p>	<p><u>M/s Elite Foods Private Limited, Kochi</u> <u>32070378982 (2011-12)</u> <u>CTO, Special Circle II, Ernakulam</u></p> <p>The audit observation in this case is relating to the short levy of tax due to the application of incorrect rate of tax on bakery products sold under the brand name registered under the Trade Marks Act 1999 @4% instead of assessing tax @12.5%.</p> <p>The assessment was completed as per order No.32070378982/2011-12 dated 17-10-2016 creating an additional demand of Rs.4,09,16,128/- (Tax – Rs.2,63,97,502/- and Interest Rs.1,45,18,626/-).</p> <p>Aggrieved by the order, the assessee filed appeal before Deputy Commissioner(Appeals), Ernakulam. The appellate authority found that the appellant is liable to pay tax @ 12.5% only on the turnover of the product sold under brand name registered under the Trade Mark Act 1999 as per entry No. 11 of SRO 82/2006 and the balance turnover will be assessed at lower rate vide entry 7 of third schedule and directed the assessing authority to levy tax accordingly. They have filed supporting C form declaration for concessional rate. The assessment was modified in the light of the appellate order and verification of the documents filed. The turnover assessed as per the modified order was Rs. 92,96,185/- taxable @4%. In the circumstances, there is no short levy in the case.</p>

Para No.	Gist of the case	Present position
2.5.2 (b)	<p>The audit scrutiny at the Office of the Assistant Commissioner, Special Circle, Kozhikode revealed certain irregularities in respect of Ojin Foods (P) Ltd., Kozhikode, a dealer in bakery products sugar etc., leading to a short levy of tax due to application of incorrect rate of tax.</p> <p>As per the annual return filed by the assessee for the year 2010-11, the sales turnover of bakery products amounting to Rs.7.93 crore was self assessed to tax at four per cent as if they have sold under un-registered brand name. Audit verified the details of brand name with the Controller General of Patents, Designs and Trade Mark, Mumbai available in the internet and found that the assessee was a holder of registered brand name "Ojin". Hence the rate of tax applicable was 12.5 per cent. Application of incorrect rate of tax resulted in short levy of tax cess and interest of Rs. 78.94 lakh.</p>	<p>The original assessment was completed vide order dated 06.12.2013 with 'Nil' demand against bakery products. The issue was whether the item was branded or not. In pursuance to the audit objection raised, the assessment of the dealer for the year 2010-11 has been completed vide order No.320110634924/10-11 dated 08-12-2014 of the Commercial Tax Officer, Second Circle, Kozhikode by creating an additional demand of Rs.97,99,036/- (including interest).</p> <p>Against this order, the dealer has filed appeal before Deputy Commissioner(Appeals), Kozhikode and the appellate authority has directed the assessing authority to modify the assessment vide order No. VATA 126/15 dated 11.05.2015. In obedience to the appellate order, the assessing authority modified the assessment as per order dated 25.09.2015 and the modified demand was Rs. 32,11,728/-. Against the modified order, the dealer has filed suit before the Hon'ble High Court of Kerala vide WPC 34111 of 2015. As per the direction in the above said WP(C) dtd. 12.11.2015, the assessing authority modified the assessment as per order dated 18.01.2016 and the demand was Rs. 31,48,195/- (tax due - Rs. 28,10,888/- + interest due - Rs. 3,37,307/-). Against the modified order, the dealer has again filed appeal before the Deputy Commissioner(Appeals), Kozhikode. As per VATA 519/2016 dated 22.09.2017, the Deputy Commissioner(Appeals), Kozhikode has directed the assessing authority to modify the</p>

		<p>already modified assessment order. Against the appellate order VATA 519/2016, the State filed 2nd appeal before the Hon'ble Tribunal and the Tribunal allowed the appeal as per TA(VAT) 473/2017 dated 13.01.2020 and set aside the appellate order (ie., VATA 519/2016 dated 22.09.2017) and restore the assessment order dated 18.01.2016.</p> <p>Against the appellate order VATA 126/2015 dated 11.05.2015, the assessing authority had filed 2nd appeal before STAT Additional Bench, Kozhikode. As per order TA(VAT) 114/2015 dated 27.01.2021, the Hon'ble Tribunal partly allowed the appeal and the assessing authority modified the assessment as per Order dated 03.03.2021. The demand created for Rs. 64,52,922/- (Tax – Rs. 29,46,540 + interest – Rs. 35,06,382/-). The amount is under RR and no collection reported till date.</p>
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Para No.	Gist of the case	Present position
2.5.2(c)	<p>M/s. Best Foods, Kochi was a manufacturer and dealer of bakery products. From the internet, Audit found that the assessee had been permitted to use the registered trade mark 'Best, Two Chef (Label)' by the Controller General of Patents, Design & Trade Mark. Thus the products were sold under the registered trade mark and hence were taxable at 12.5 per cent. However, during 2011-12, the assessee self assessed to tax the sales turnover of bakery products for Rs.5.53 crore at four per cent instead of 12.5 per cent applicable to branded food products. Application of incorrect rate of tax resulted in short levy of tax, cess and interest of Rs.54.62 lakh.</p>	<p>The assessment of M/s.Best Foods, Kochi for the assessment year 2011-12 was completed as per order dated 29.11.2013 by considering all the aspects pointed out by Audit and created an additional demand of 56.99 lakhs including interest. The assessee filed appeal against the order and Deputy Commissioner (Appeals)-II, Commercial Taxes, Ernakulam, who granted conditional stay as per the order No.KVATA-3828/13 dated 26.2.2014. The assessee remitted Rs.17,52,493.00 (30%) vide chalan No.194 dated 03.04.2014 and fulfilled the stay condition. Further payment is under stay. The appellate authority dismissed the appeal. The assessee preferred an appeal before the Tribunal, vide order No. TA 622/2013 dated 27.01.2017 which was also dismissed. Subsequently, the assessee had filed amnesty application for the tax arrears and the same has been accepted. Accordingly, amnesty proceedings has been issued. By this time the said arrears are being remitted.</p>

Para No.	Gist of the case	Present position												
2.5.3 (1)	<p>Audit scrutiny at the Office of the Asst. Commissioner, Spl. Cir., Perumbavur revealed certain irregularities in respect of tax assessment of M/s Kunnethu Pharamaceuticals, the manufacturer of 'Musli Power X-tra' leading to a short levy of tax due to application of incorrect rate of tax.</p> <p>As per the annual return filed by the assessee for 2009-10 the assessee self assessed to tax the local sales turnover of Muslipower "Xtra" of Rs. 18.82 crore at four percent, treating it as medicine, instead of assessing tax at 12.5 per cent. Application of incorrect rate of tax resulted in short levy of tax, cess and interest of Rs.1.67 crore.</p>	<p>In pursuance of audit objection, the assessing authority finalized the assessment for the years 2009-10 u/s 25(1) of the KVAT Act dtd. 25.07.2012 emphasizing the dictums laid down by the Hon'ble Apex Court in several cases that unless an item is proved to be therapeutic or prophylactic in nature, the item cannot be called as an ayurvedic medicine. The contention of the dealer that their product "Musli Power X-tra" is an ayurvedic medicine was rejected as the same is of a herbal preparation without any specific use for any disease whether as therapeutic or prophylactic and the item is purely a food supplement taxable at 12.5% as under.</p> <table border="1" data-bbox="734 952 1453 1187"> <thead> <tr> <th>Year</th> <th>Dt. of order</th> <th>Taxable turnover</th> <th>Tax + Cess levied</th> <th>Tax Paid</th> <th>Balance</th> </tr> </thead> <tbody> <tr> <td>09-10</td> <td>25-7-12</td> <td>21,99,45,660.00</td> <td>2,51,24,513.00</td> <td>67,16,793.00</td> <td>1,84,07,720.00</td> </tr> </tbody> </table> <p>The balance tax and interest were advised for revenue recovery.</p> <p>The arrear tax with interest were advised for Revenue Recovery through the District Collector. Against the assessment order, the assessee filed appeal before Deputy Commissioner(Appeals), Ernakulam and the appellate authority dismissed the appeal vide order in KVATA 3541/12 dated 31.01.2015. Against this, the assessee filed second appeal and the appellate Tribunal allowed the appeal vide order in TA(VAT) Nos. 85 & 86 /2015 dated 05.04.2016 .</p> <p>Against this order, department has requested to file OT revision, the Government Pleader intimated that there is no scope for filing OT revision against this order.</p>	Year	Dt. of order	Taxable turnover	Tax + Cess levied	Tax Paid	Balance	09-10	25-7-12	21,99,45,660.00	2,51,24,513.00	67,16,793.00	1,84,07,720.00
Year	Dt. of order	Taxable turnover	Tax + Cess levied	Tax Paid	Balance									
09-10	25-7-12	21,99,45,660.00	2,51,24,513.00	67,16,793.00	1,84,07,720.00									

Para No.	Gist of the case	Present position						
2.5.3 (2)	<p>M/s. Kunnathu Pharmaceuticals, Muvattupuzha was a manufacturer of 'Musli power X-tra'. During 2009-10 to 2011-12, the assessee self assessed to tax the sales turnover of 'Muslipower X-tra' at four per cent, treating it as medicine. The Department clarified (November 2012) that 'Muslipower X-tra' is not classifiable under medicine but should be treated as an unclassified item taxable at 12.5 per cent. However the assessing authority did not complete the assessment applying the correct rate. This resulted in short remittance of tax, cess and interest of Rs.3.06 crore.</p>	<p><u>M/s Kunnath Pharmaceuticals, Muvattupuzha (2010-2011)</u> <u>CTO, Special Circle, Perumbavoor</u></p> <p>In pursuance of the audit, the assessment under KVAT Act 2003 was completed vide order dated 22/01/2015 results in the arrear tax as follows:-</p> <table border="1" data-bbox="762 645 1469 748"> <thead> <tr> <th data-bbox="762 645 1015 696">VAT due</th> <th data-bbox="1019 645 1230 696">Cess due</th> <th data-bbox="1235 645 1469 696">Interest</th> </tr> </thead> <tbody> <tr> <td data-bbox="762 703 1015 748">Rs.1,22,36,032/-</td> <td data-bbox="1019 703 1230 748">Rs.1,03,350/-</td> <td data-bbox="1235 703 1469 748">Rs.60,46,297/-</td> </tr> </tbody> </table> <p>Against the assessment order, the assessee filed appeal before the Deputy Commissioner (Appeals). The appeal was dismissed vide KVATA 687/2015 dated, 27-10-2016. Aggrieved by this order, the assessee approached the Hon'ble KVAT Appellate Tribunal, Ernakulam and the Tribunal stayed the order vide Order No.INTP No.82/2017 dated, 21-07-2017 in TA (VAT) No.97/2017 till the disposal of the appeal.</p> <p>The assessment for the year 2008-09 and 2009-10 was allowed in favour of the assessee by Hon'ble Kerala Value Added Tax Appellate Tribunal, Addl. Bench, Ernakulam vide order No.85 & 86/2015 dated, 05-04-2016 by directing to assess the product of the assessee @ 5% instead of 14.5%. Against this order, this office has requested to file OT revision, the Government Pleader intimated that there is no scope for filing OT revision against this order.</p>	VAT due	Cess due	Interest	Rs.1,22,36,032/-	Rs.1,03,350/-	Rs.60,46,297/-
VAT due	Cess due	Interest						
Rs.1,22,36,032/-	Rs.1,03,350/-	Rs.60,46,297/-						

Para No.	Gist of the case	Present position
2.5.3 (3)	<p>The audit inspection at the office of the AC, Spl. Cir., Perumbavoor, revealed certain irregularities in respect of tax assessment of M/s.Kunnathu Pharmaceuticals, the manufacturer of 'Musli Power X-tra' for the year 2011-12 leading to a short levy of tax due to application of incorrect rate of tax.</p> <p>During 2011-12, the assessee had a sales turnover of Rs.4.06 crore (local sales Rs.3.70 cr. and interstate sales Rs.36.35 lakhs). The assessee self assessed to tax their local sales turnover of Rs.3.70 cro. at four percent treating it as medicine. The Dept. after verifying various aspects, clarified (Nov. 2012) that the commodity is not classifiable under medicine, but should be treated as an unclassified item taxable at 12.5 percent. Audit found that their commodity being 'Musli Power X-tra', an unclassified item as stated above, turnover should have been assessed to tax at 12.5 percent instead of four per cent. The assessing authority did not complete the assessment applying the correct rate. Besides, the interstate sales turnover not covered by declaration in Form No.C for Rs.36.35 lakhs, was also assessed to tax at four per cent. Application of incorrect rate of tax resulted in short levy of tax, cess and interest of Rs.35.30 lakhs.</p>	<p>In pursuance of audit objection, assessment was completed vide order dated 02-06-2014 creating addl. Demand Rs.34.72 lakhs. The appeal filed against the assessment order was dismissed vide KVATA 687/2015 dated 27-10-2016 by the Deputy Commissioner (Appeals), Ernakulam. Aggrieved by this order the assessee approached the Hon'ble KVAT Appellate Tribunal, Ernakulam and the Hon'ble KVAT Appellate Tribunal, Addl. Bench, Ernakulam "allowed" the appeal in favour of the assessee vide order TA (VAT) No.99/2017 dated, 07-03-2020 directing the assessing authority to assess the product of the assessee at 4% instead of 12.5%. Obeying this order remanded assessment was completed vide this office proceedings dated, 25-02-2021 with an additional demand of Rs.1,811/- (Tax – Rs.875.00 + Interest – Rs.936.00).</p> <p>Against this order, this office has requested to file OT revision and the Government Pleader intimated that there is no scope for filing OT revision against the Tribunal revision. Also, CST assessment for the year 2010-11 & 2011-12 was allowed in favour of the assessee by the Hon'ble Kerala Value Added Tax Appellate Tribunal, Addl. Bench, Ernakulam vide order No.98/2017 dated, 21-08-2019 directing to assess the product of the assessee @ 4% instead of 12.5%.</p>

Para No.	Gist of the case	Present position
2.5.4	<p>M/s. Thermal Tech Engineers, Perumbavoor was a manufacturer and dealer of thermic fluid heater, steam boiler, chimney etc. During 2009-10,2010-11 and 2011-12, the assessee had sales turnover of Rs.1.16 crore, Rs.1.40 crore and Rs.1.45 crore respectively for those commodities. Audit found that as per annual returns filed by the assessee for the years, the assessee self assessed to tax the above commodities at four per cent against the correct rate of 12.5 per cent. The assessing authority did not select the case for revised assessment to rectify the defect and make good the short levy. This resulted in short payment of tax, cess and interest of Rs.42.35 lakh.</p>	<p><u>M/s Thermal Tech Engineers</u> <u>2009-10,(2010-2011),2011-12</u> <u>CTO, II Circle ,Perumbavoor</u></p> <p>Based on the audit objection, the assessing authority completed the escaped assessment for the above three years u/s. 25(1) of the KVAT Act fixing the rate of tax of the commodity 'Thermic fluid heater' @ 12.5% based on the clarification order No. CT-28881/06/CT dated 12-08-2006 of the Commissioner of Commercial Taxes vide office proceedings dated 11-11-2013, 12-12-13 and 13-12-2013 respectively. Aggrieved by this order, the dealer preferred appeal before the Assistant Commissioner(Appeals), Ernakulam. The appellate authority as per order No.KVATA No.99/14 dated 31-01-2014 set aside the order dated 11-11-2013 directing the assessing authority to consider the case relating to the year 2009-10 afresh in the light of the judgment in OTA No.3 of 2008 dated 15-2-2008 of the Hon'ble High Court of Kerala filed by M/s Cinzac Sales Services Pvt. Ltd. in which the Hon'ble High Court has set aside the above clarification and remitted back to the Commissioner of Commercial Taxes to redo the matter in accordance with law. Accordingly the original assessment for the year 2009-10 had been modified vide this office proceedings dated 16-10-2015. Now the authority for clarification has issued a fresh clarification as per order No.C3/28881/06/CT dated 7-4-2016 and restored the original clarification as such. In order to set right the defects occurred in this regard, the Deputy Commissioner has cancelled the modified order issued from this office and remitted back for fresh disposal, as per section 56(3) of the Act. As per this direction the assessment for the year 2009-10 has been completed u/s 25(1) of the Act as per order No.32151392932/09-10 dated 20-12-2016 creating an additional demand of Rs.15,87,969/-. The appeals filed by the dealer for the years 2010-11 and 2011-12 have been dismissed as per order No.KVATA 99/14, 748/14, 749/14 and 750/14(2009-10 to 2012-13) dated 28-10-2016 and hence the</p>

original orders already issued for the above years are still in effect. The demand created and present position of the same are detailed below.

Year	Date of Order	Tax	Interest	Total	Paid	Remarks
2009-10 (reopened)	20.12.2016	877331	710638	1587969	0	RRC issued on 03.03.2017
2010-11	12.12.2013	1152492	380322	1532814	0	RRC issued on 22.10.2016
2011-12	13.12.2013	1174030	246546	1420576	0	RRC issued on 22.10.2016

The assessee filed WP(C) No. 10000/2017 before the Hon'ble High Court against Common Appellate order dated 28.10.2016 which is pending for disposal. A letter No.K4.WP(C) 10000/17 dated 28.03.2017 was received from the Office of Advocate General, Kochi intimating that Hon'ble High Court orally directed not to take revenue Recovery Steps in the meantime. A letter dated 30.09.2021 was submitted to Joint Commissioner (Law), Ernakulam requesting for speedy disposal of the case.

The assessee filed Revision Petition against order No.M5-2156/SM/2016 dated 03.09.2016 of the Deputy Commissioner, Mattancherry before the Commissioner of State Tax, State Goods and Services Tax Department, Thiruvananthapuram. This revision petition was transferred from Commissioner of Commercial Taxes, Thiruvananthapuram to Hon'ble Tribunal after the amendment of Section 60 of the Act. Being found that an order passed by Deputy Commissioner under section 56 of the Act, cancelling the assessment is not covered by the proviso to Section 60 of the Act, the Hon'ble Tribunal retransmitted the records to the Commissionerate for disposal (vide order No.T.A(VAT)466/2017 Dated 27.04.2020).

Later the Revision Petition was dismissed vide Order

		<p>No.CT/4057/2016-RI 28/12/2020 of the Commissioner of State Tax, State Goods and Services Tax Department, Thiruvananthapuram. OT Revision No.22 of 2021 filed by the assessee against Order No.CT/4057/2016-RI 28/12/2020 is also pending for disposal.</p>
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Para No.	Gist of the case	Present position																																
2.5.5	<p>M/s. Kummenchery Steels, Thiruvankulam was a dealer in iron, steel, metals, alloys etc. During 2011-12, the assessee did not concede in the annual return any interstate purchase of 12.5 per cent taxable items and entire interstate purchase was shown as four per cent taxable. Further, they did not concede any sales turnover of 12.5 per cent taxable items. Audit scrutinised the data available on check post module of KVATIS and found that assessee had effected interstate purchase of 12.5 per cent taxable items such as abrasive sheet, asbestos sheet, ignition coil etc. for Rs. 1.72 crore. As there was no closing stock of 12.5 per cent taxable items, it was evident that corresponding sales turnover was included in four per cent taxable sale.</p>	<p>The assessee is dealing with the iron and steel categorized commodities, taxable @ 4%. The assessee deals with above varieties of goods only. But in the checkpost data it is seen wrongly entered as 12.5% taxable commodities such as asbestos cement, abrasive sheets etc. The wrong entry by the data entry staff of Check post resulted in creation of such wrong reports on KVATIS. As per the audit observation, total amount of purchase @ 12.5% is Rs. 1,72,18,000/-.</p> <p>The assessing authority verified the observation with reference to the KVATIS and found that due to the inadvertent mistakes made by the check post officials in data entry, certain commodities were entered as taxable 12.5% instead of actual rate of tax @ 4% as detailed below :</p> <table border="1" data-bbox="767 1137 1337 1559"> <thead> <tr> <th>Month</th> <th>Turnover wrongly entered under 12.5%</th> </tr> </thead> <tbody> <tr> <td>June</td> <td>Rs. 57.88 Lakh</td> </tr> <tr> <td>August</td> <td>Rs. 27.02 Lakh</td> </tr> <tr> <td>September</td> <td>Rs. 10.28 Lakh</td> </tr> <tr> <td>October</td> <td>Rs. 16.88 Lakh</td> </tr> <tr> <td>December</td> <td>Rs. 10.42 Lakh</td> </tr> <tr> <td>Total</td> <td>Rs. 172.18 Lakh</td> </tr> </tbody> </table> <p>The assessing authority generated the check post details including invoice numbers from KVATIS and the same were verified with the invoices and connected documents produced by the dealer, details of which are as detailed below :-</p> <table border="1" data-bbox="635 1832 1481 2125"> <thead> <tr> <th>Month</th> <th>Invoice No</th> <th>Actual Invoice No.</th> <th>Commodity Code as per Check post entry</th> <th>As per invoice commodity</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>June</td> <td>23495</td> <td>2411123495</td> <td>Asbestos Cement</td> <td>CR Sheet</td> <td>10.59</td> </tr> <tr> <td></td> <td>24111228555</td> <td>241122851</td> <td>Asbestos</td> <td>CR Sheet</td> <td>10.99</td> </tr> </tbody> </table>	Month	Turnover wrongly entered under 12.5%	June	Rs. 57.88 Lakh	August	Rs. 27.02 Lakh	September	Rs. 10.28 Lakh	October	Rs. 16.88 Lakh	December	Rs. 10.42 Lakh	Total	Rs. 172.18 Lakh	Month	Invoice No	Actual Invoice No.	Commodity Code as per Check post entry	As per invoice commodity	Value	June	23495	2411123495	Asbestos Cement	CR Sheet	10.59		24111228555	241122851	Asbestos	CR Sheet	10.99
Month	Turnover wrongly entered under 12.5%																																	
June	Rs. 57.88 Lakh																																	
August	Rs. 27.02 Lakh																																	
September	Rs. 10.28 Lakh																																	
October	Rs. 16.88 Lakh																																	
December	Rs. 10.42 Lakh																																	
Total	Rs. 172.18 Lakh																																	
Month	Invoice No	Actual Invoice No.	Commodity Code as per Check post entry	As per invoice commodity	Value																													
June	23495	2411123495	Asbestos Cement	CR Sheet	10.59																													
	24111228555	241122851	Asbestos	CR Sheet	10.99																													

Application of incorrect rate of tax resulted in short levy of tax, cess and interest of Rs. 17.15 lakh.

			Cement		
	201	2411122869	Asbestos Cement	CR Sheet	10.80
	206	2411122238	Asbestos Cement	CR Sheet	6.69
	206		Asbestos Cement	CR Sheet	7.99
June	591441	1181	Abrasive Sheets	CR Sheet	7.07
	1179	1179	Abrasive Sheets	CR Sheet	3.42
August	JJ353	2411140013	Asbestos Cement	CR Sheet	10.72
		2411139111	Asbestos Cement	CR Sheet	5.85
August	2411135190	2411135190	Asbestos Cement	CR Sheet	10.44
September	JJ397	2411144056	Baths, Iron or Steel	CR Sheet	10.27
		2411161958	Asbestos Cement	CR Sheet	11.19
	JJ534	2411161961	Asbestos Cement	CR Sheet	3.99
		2411161957	Asbestos Cement	CR Sheet	11.13
		2411161092	Baths, Iron or Steel	CR Sheet	10.68
	JJ529	2411159489	Baths, Iron or Steel	CR Sheet	7.67
		2411158787	Abrasive Sheets	CR Sheet	11.09
	JJ507	2411158788	Abrasive Sheets	CR Sheet	11.12
December	2411177698	2411177698	Ignition Coils	CR Sheet	10.42

On verification of the check post sealed invoices and Interstate delivery note in form JJ, it was found that the commodity with respect to the above invoices were certain varieties of CR Sheets. Moreover, it was ascertained that the above invoices were supported by excise duty elements with mentioned the HSN code noted below :

7209.17.20

7209.16.20

7209.18.20

7210.49.00

It is pertinent to note that above HSN codes are rightly existing as entry 43(9) and 43(10) of third schedule, with tax rate of 4%.

From the above it can be seen that the dealer purchased only 4% taxable commodities and not effected purchases of any commodities taxable @ 12.5%.

Para No.	Gist of the case	Present position
2.5.6	<p>The audit at the office of the Asst. Commissioner, Spl. Cir., Malappuram revealed a short levy of tax due to the application of incorrect rate of tax.</p> <p>During 2011-12, M/s. Santhosh Pharmacy manufacturer of ayurvedic products assessed sales turnover of ayurvedic cosmetic products coming under notified list of 12.5% taxable goods for Rs.2,09,33,330/- at 4% on MRP value by classifying them as medicines. Thus misclassification resulted in a short levy of tax, cess and interest of Rs.15,03,490/-</p>	<p>Sri. K. Velayudhan, Santhosh Pharmacy is holding a drug license for manufacturing and sale of ayurvedic, sidha and unani drugs under the Drugs and Cosmetics Act, 1940.</p> <p>As per Finance Act, 2012, rate of tax on ayurvedic cosmetic products manufactured under a drug license was reduced from 13.5% to 5% with effect from 01-04-2012. The Finance Act, 2014 added a note to serial number 36 of item 27 of third schedule, that the entry shall be deemed to have come into force on the 13th day of November, 2009, whereby the rate of tax on ayurvedic products manufacturer under a drug license stands at 4% during the period from 13-11-2009 to 31-03-2012.</p>

Para No.	Gist of the case	Present position
2.5.7	<p>Audit scrutiny at the office of the Assistant Commissioner, Special Circle, Malappuram revealed certain irregularities in assessment of tax in respect of M/s Tip Top Furniture Industries, Kottakkal leading to a short levy of tax due to application of incorrect rate of tax.</p> <p>The assessee was a dealer in furniture and furnishing materials. During 2011-12, they filed annual return disclosing total local sales turnover of Rs.17.82 crore. This included turnover classified as sale of handicrafts for Rs.1.21 crore which was self assessed to tax at four per cent. As per closing stock inventory, Audit found that the commodity classifiable as handicrafts was nothing but carved wooden settee, dining table etc., which are classified as furniture taxable at 12.5 per cent. The assessing authority did not complete the assessment rectifying the defect. The misclassification resulted in short levy of tax, cess and interest of Rs.11.59 lakh.</p>	<p>The assessment in respect of the dealer was completed vide Order No. 32100628375/2011-12 dated 30.01.2014 creating an additional demand of Rs.12,62,461/-towards tax, cess and interest.</p> <p>The dealer had remitted an amount of Rs. 6,31,230/- towards the dues as per the stay conditions stipulated in WP(C) No. 16579/2014 dated 01.07.2014. Against this order the dealer had filed appeal before the Deputy Commissioner (Appeals)-I, Ernakulam and the Appellate Authority dismissed the appeal as per KVATA-1402/14 dated 26/03/2016. Aggrieved by this the dealer had filed second appeal before the Kerala Value Added Tax Additional Appellate Tribunal, Palakkad. The Tribunal set aside the assessment order by accepting the contentions of the dealer. Against this order the department has filed OTR before the Hon'ble High Court of Kerala on 05.01.2017 which is pending for disposal.</p>

Para No.	Gist of the case	Present position
2.5.8	<p>M/s. Indus Motor Company (P) Ltd., Kochi was a dealer in motor vehicles and parts. As per the annual return for 2009-10 filed by the assessee, their conceded total and taxable sales turnover of used motor vehicles were Rs.45.97 crore and Rs.45.75 crore respectively. The taxable turnover was self assessed to tax at 0.5%. Assessing authority confirmed from the website of the Motor Vehicles Department that 21 of these motor vehicles, the sale value of which amounted to Rs.56.17 lakhs, were not actually used for minimum period of 15 months and completed (September, 2012) the assessment applying 12.5% on the turnover of Rs. 56.17 lakhs. The original assessment was revised (June 2013) on detection of suppression by data mining team of the department. However, audit found that subsequently on application from the assessee for rectification of some errors in the assessment, another assessing officer assessed the entire sales turnover of Rs.45.97 crore conceded by the assessee as that of used motor vehicles in their annual return at 0.5%. Levy of tax on vehicles used for less than 15 months at the rate applicable to used vehicle resulted in short levy of tax, cess and interest of Rs.9.67 lakhs.</p>	<p>The assessment order for the year 2009-10 assessing the turnover of Rs. 45.97 crore was assessed @12.5% being the sales turnover of used vehicles as per order dated 02.06.2013. The assessee filed appeal against the order. The appellate authority found that the sale of used vehicle were supported by documents and found that the turnover of Rs. 85,44,802/- was taxable @0.05% after verifying the documents produced. The appellate authority further directed to verify the documents and allow the claim and rectify the assessment accordingly. The assessee had produced all relevant records before the assessing authority and the assessing authority verified the same and noticed that the turnover assessable @ 12.5% was Rs. 2,31,02,960/- and taxable @ 0.5% Rs. 85,44,802/- and the assessment was modified accordingly.</p>

Para No.	Gist of the case	Present position
2.5.9	<p>M/s. Quilon Tyres & Treads, Kollam was an assessee who had a contract receipt of Rs.86.06 lakhs during 2010-11 from retreading of tyres. They splitted the contract as sale of materials (Rs.66.48 lakhs) and labour charges (Rs.19.58 lakhs) and assessed tax at four per cent on former portion treating it as sale of tread rubber and availed exemption on the later. Failure to levy tax at 12.5 percent on the transfer value of goods resulted in short levy of tax, cess and interest of Rs.6.91 lakhs.</p>	<p>Having found that the audit object is sustainable, assessment in respect of M/s. Quilon Tyres & Treads, Kollam for the year 2010-11 was finalized on 06-12-2013 u/s.25(1) of KVAT Act with an additional demand of Rs.7,96,423/- and interest of Rs.2,46,891/- by the Commercial Tax Officer (WC), Kollam. Against this order, the dealer filed appeal before the Deputy Commissioner (Appeals), Kollam and the assessment was modified as per appellate Order No. KVATA(KLM) 260/2014 dated 12.02.2015. As per the modified order resulting in excess payment of Rs. 3,73,262/-. This was refunded in compliance to judgment in WP(C) No. 14813/2015 of Hon'ble HC of Kerala dated 08.06.2015. Against this, State filed second appeal and the Hon'ble Tribunal disposed the appeal in favour of the State. As per TA (VAT) No. 64/15, 65/15, 66/15 and 115/15 dated. 07.03.2022 the assessment was modified on 25.04.2022 creating a demand of Rs. 1,97,483/- as tax and Rs. 2,60,678/- as interest. Against the order the dealer filed OT Revision in the Hon'ble High Court of Kerala. The Honourable High Court of Kerala passed an interim order on 19.10.2022. An Interim stay of recovery subject to the petitioner depositing 25% of tax demanded in two installment. As the refund amount already given to the dealer has not been considered in the modified order dated. 25.04.2022, a notice U/s 66 of the KVAT Act 2003 has been issued on 28.10.2022. Against the order the dealer filed OT Revision in the Hon'ble High Court of Kerala, which is pending.</p>

Para No.	Gist of the case	Present position
2.5.10	<p>M/s Mathew Abraham, Ranny was a works contractor registered under CST Act. During 2010-11 the assessee self assessed his contract receipts from Government of Kerala at compounded rate of three per cent. The assessing authority revised the assessment in May 2012 creating additional demand of Rs.4.73 lakh at differential rate of one percent including cess and interest. But the same was cancelled on the ground that the dealer had no CST Registration. Audit found that the assessee requested the assessing authority in January 2010 for the revalidation of C Forms upto 30 June 2010. From this it is evident that the assessee had not applied for cancellation of registration six months prior to April 2010 without which cancellation of registration will not be effective during 2010-11. Hence the assessee is liable to pay compounded tax at four per cent. Application of</p>	<p>Mathew Abraham, Karimkuttiyil, Ranni is a contractor engaged in executing Civil works and having CST registration. On receipt of his application for compounding, he was granted permission to remit compounded tax @ 3.03% plus tax at scheduled rate under section 8(a)(ii) of KVAT Act 2003 for the year 2010-11. As the dealer took up only Government of Kerala works during 2010-11 he has been permitted to remit compounded tax @ 4.04% under proviso to section 8(a) (ii) of KVAT Act 2003 vide order No. 32030785304/2010-11 dtd: 04.05.2012. Later, as per proceedings dtd: 19.05.2012, the Commercial Tax Officer (WC), Pathanamthitta cancelled this order stating that the dealer had no CST registration during 2010-11. Cancellation order dtd: 04.05.2012 was not correct and hence the audit observation is sustainable.</p> <p>According to proviso to Section 8(a) (ii) of KVAT Act 2003, the compounded tax payable by any works contractor who is a dealer registered under the provisions of CST Act 1956 or an importer, in respect of contracts awarded by Government of Kerala shall be 4% of the whole contract amount. The assessee was a dealer registered under the provisions of CST Act and he remained so during 2010-11 as his registration was not cancelled by the registering authority under section 7(5) of CST Act 1956. According to Sn.7(5) of CST Act, for cancellation of registration certificate, a registered dealer should apply in the prescribed manner not later than six months before the end of a year. The authority may, after ensuring that there are no liability under the CST Act, cancel the registration and in such a case cancellation of registration shall take effect from the end of the year. In this case the assessee had neither applied</p>

incorrect rate resulted short levy of tax, cess and interest of Rs.5.03 lakh.

for cancellation of CST Registration nor the Commercial Tax Officer cancelled the same. As per letter dtd: 15.01.2010, the dealer has requested to revalidate 'C' Form up to 30.06.2010. Thus the assessee remained as a dealer registered under CST Act during 2010-11 and therefore he is liable to remit compounded tax @ 4% with cess 1% on tax on the whole amount of receipts on works contract during the year 2010-11".

Accordingly, the assessment for the year 2010-11 has been completed u/s 25(1) of the Act vide order No. 32030785304/2010-11 dtd: 13.3.14 of the Commercial Tax Officer (WC), Pathanamthitta demanding Rs. 4,22,526/- towards balance compounded tax and Rs.1,47,884/- towards interest. The amount has been advised to Revenue Recovery and Rs. 6,52,693/- has been collected vide Chalan No. S 432/2.7.14, S 470/5.9.14 and S 312/30.12.2014.

Para No.	Gist of the case	Present position
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p>	<p>Sl.No.1 <u>Niskshnan Electronics</u> <u>32120213984(2008-09)</u> <u>CTO, Special Circle, Kannu</u></p> <p>Total and taxable purchase turnover of 12.5% goods reported in the Annual Return - Rs. 48,37,32,395.44 Eligible input tax credit on the reported turnover @ 12.5% Rs. 6,04,66,549.43 Input tax credit claimed in the annual return for 12.5% Rs. 6,09,93,360.34 Excess input tax credit claimed Rs. 5,26,810.91</p> <p>The turnover of 12.5% goods shown in the AG's report Rs. 42,27,39,035/- is not available elsewhere in the KVATIS and also not available in the assessment records. A rectification of the purchase turnover of 12.5% goods shown in the AG's report may kindly be considered. After considering the actual purchase turnover of 12.5% goods, there is no excess input tax credit in this case other than assessed. The assessing authority completed the assessment as per assessment order No.32120213984/2008-09 dated 02-09-2010. Aggrieved by the order, the dealer preferred appeal before the Deputy Commissioner (Appeal)-II, Kozhikode and the appellate authority was remanded the case for fresh disposal. The assessing authority again completed the assessment and the dealer had paid the entire demand vide chalan No.969 dated 20-10-2014 as per the assessment order no 32120213984/08-09 dated 30-09-2014 (Modified).</p>
Dealer Name / TIN	Nikshanan Electronics 32120213984	
Year	2008-09	
Excess input tax claimed (Rs.)	8150981	
Total including tax, cess and interest (Rs.)	13501285	
Penalty (Rs)	16464982	

Para No.	Gist of the case	Present position																									
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Popular Stores 32120568055</td> </tr> <tr> <td>Year</td> <td>2008-09</td> </tr> <tr> <td>Excess input tax claimed (Rs.)</td> <td>3,52,257/-</td> </tr> <tr> <td>Total including tax, cess and interest (Rs.)</td> <td>5,83,478/-</td> </tr> <tr> <td>Penalty (Rs)</td> <td>7,11,558/-</td> </tr> </table>	Dealer Name / TIN	Popular Stores 32120568055	Year	2008-09	Excess input tax claimed (Rs.)	3,52,257/-	Total including tax, cess and interest (Rs.)	5,83,478/-	Penalty (Rs)	7,11,558/-	<p>Sl.No.2 Popular Stores <u>32120568055(2008-09)</u> <u>CTO, Special Circle, Kannur</u></p> <p>The assessing authority verified the books of accounts in detail and found that the figures pertaining to the 4% taxable goods are not considered in taking the difference in the excess input tax.</p> <p>Excess Input tax details as per accounts reveals:-</p> <table border="1"> <thead> <tr> <th>Total Purchase</th> <th>Eligible Input Tax</th> <th>Availed Input Tax</th> </tr> </thead> <tbody> <tr> <td>12.5% taxable goods</td> <td>4,41,78,035.00</td> <td>55,22,254.00</td> </tr> <tr> <td>4% taxable goods</td> <td>9,65,03,026.00</td> <td>38,60,121.00</td> </tr> <tr> <td>Total</td> <td></td> <td>93,82,375.00</td> </tr> <tr> <td>Excess</td> <td></td> <td>9,925.00</td> </tr> </tbody> </table> <p>Many of the invoices contains purchase of 4% commodities and 12.5% commodities together. They were not properly bifurcated and entered in the returns. Now the dealer has reconciled the difference and since it is only a mix up in the entry of purchase of 4% and 12.5% commodities, the excess input tax claimed is only Rs.9,925/- which is assessed by the assessing authority. The dealer opted amnesty scheme and remitted entire amount (Rs. 9960/-) as per challan dated 10.09.2017.</p>	Total Purchase	Eligible Input Tax	Availed Input Tax	12.5% taxable goods	4,41,78,035.00	55,22,254.00	4% taxable goods	9,65,03,026.00	38,60,121.00	Total		93,82,375.00	Excess		9,925.00
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Excess		9,925.00																									

Para No.	Gist of the case	Present position										
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Traco Cable Co. Ltd. 32070491572</td> </tr> <tr> <td>Year</td> <td>2009-10</td> </tr> <tr> <td>Excess input tax claimed (Rs.)</td> <td>1,57,257/-</td> </tr> <tr> <td>Total including tax, cess and interest (Rs.)</td> <td>2,41,421/-</td> </tr> <tr> <td>Penalty (Rs)</td> <td>3,17,659/-</td> </tr> </table>	Dealer Name / TIN	Traco Cable Co. Ltd. 32070491572	Year	2009-10	Excess input tax claimed (Rs.)	1,57,257/-	Total including tax, cess and interest (Rs.)	2,41,421/-	Penalty (Rs)	3,17,659/-	<p>Sl.No.3 Traco Cable Co. Ltd <u>32070491572 (2009-10)</u> <u>CTO, Special Circle III, Ernakulam</u></p> <p>The Accountant General pointed out that for the year 2009-10, the assessee M/s Traco Cable Company Limited, availed input tax credit of Rs.34,94,610/- on the purchase of goods taxable @4% for Rs.8,34,33,805/-. The input tax credit eligible on such purchase (@4%) is Rs.33,37,352/- only. Thus the assessee availed excess input tax credit of Rs.157257/-.</p> <p>The best judgment assessment completed vide order No.32070491572/2009-10 dated 2-5-2017 demanding Rs.2,89,355/- (Tax & Cess Rs.1,57,258/- and interest Rs.1,32,097/-). The dealer remitted the amount Rs. 1,57,258/- under amnesty scheme 2018-19.</p>
Dealer Name / TIN	Traco Cable Co. Ltd. 32070491572											
Year	2009-10											
Excess input tax claimed (Rs.)	1,57,257/-											
Total including tax, cess and interest (Rs.)	2,41,421/-											
Penalty (Rs)	3,17,659/-											

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Para No.	Gist of the case	Present position										
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p> <table border="1" data-bbox="244 1187 667 1568"> <tr> <td data-bbox="244 1187 454 1294">Dealer Name / TIN</td> <td data-bbox="454 1187 667 1294">Standard Treads Private Ltd 32050571275</td> </tr> <tr> <td data-bbox="244 1294 454 1344">Year</td> <td data-bbox="454 1294 667 1344">2009-10</td> </tr> <tr> <td data-bbox="244 1344 454 1422">Excess input tax claimed (Rs.)</td> <td data-bbox="454 1344 667 1422">4,09,788/-</td> </tr> <tr> <td data-bbox="244 1422 454 1529">Total including tax, cess and interest (Rs.)</td> <td data-bbox="454 1422 667 1529">6,29,107/-</td> </tr> <tr> <td data-bbox="244 1529 454 1568">Penalty (Rs)</td> <td data-bbox="454 1529 667 1568">8,27,772/-</td> </tr> </table>	Dealer Name / TIN	Standard Treads Private Ltd 32050571275	Year	2009-10	Excess input tax claimed (Rs.)	4,09,788/-	Total including tax, cess and interest (Rs.)	6,29,107/-	Penalty (Rs)	8,27,772/-	<p>Sl.No.4 <u>Standard Treads Private Ltd</u> <u>32050571275 (2008-09)</u> <u>CTO, Special Circle, Kottayam</u></p> <p>The defect pointed out in the audit is that the dealer, M/s. Standard Treads Pvt Ltd, had availed excess IPT amounting to Rs. 2,17,957/- at 12.5% on the purchase of 4% taxable goods. As per the return for the month of 04/08 to 06/08, the dealer had purchased solvent oil (inedible oil) amounting to Rs. 25,38,823/- and availed IPT claim for Rs.3,20,256/-. The solvent oil is taxable @4% but the assessee claimed 12.5% IPT. In this connection it is submitted that the dealer had actually purchased SBP spirit having HSN code 2710-11-11 from M/s. Bharat Petroleum Corporation which is an industrial material used in the manufacturing of Vulcanizing solution and the supplier had collected VAT @ 12.5% and remitted accordingly. But while uploading the details the dealer had misclassified the item as Inedible Oil by mistake. The corresponding invoices were verified and found that the claim of the dealer is in line and hence admissible.</p>
Dealer Name / TIN	Standard Treads Private Ltd 32050571275											
Year	2009-10											
Excess input tax claimed (Rs.)	4,09,788/-											
Total including tax, cess and interest (Rs.)	6,29,107/-											
Penalty (Rs)	8,27,772/-											

Para No.	Gist of the case	Present position																																										
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Standard Treads Private Ltd 32050571275</td> </tr> <tr> <td>Year</td> <td>2009-10</td> </tr> <tr> <td>Excess input tax claimed (Rs.)</td> <td>409788</td> </tr> <tr> <td>Total including tax, cess and interest (Rs.)</td> <td>629107</td> </tr> <tr> <td>Penalty (Rs)</td> <td>827772</td> </tr> </table>	Dealer Name / TIN	Standard Treads Private Ltd 32050571275	Year	2009-10	Excess input tax claimed (Rs.)	409788	Total including tax, cess and interest (Rs.)	629107	Penalty (Rs)	827772	<p><u>Sl.No.5 Standard Treads Private Ltd</u> <u>32050571275 (2009-10)</u> <u>CTO, Special Circle, Kottayam</u></p> <p>The gist of the audit is that the dealer M/s Standard Treads (P) Ltd has made a local purchase of Rs.30,02,80,216/- during the year 2009-10 and the IPT eligible was Rs.1,20,11,209/- whereas the dealer has availed IPT Rs.1,24,20,997/-. So that an excess IPT of Rs.4,09,788/- claimed.</p> <p>In this connection it may be noted that the dealer has made certain mistakes while uploading the return for 5/09 and 6/09. The mistake occurred in uploading the turnover of Rubber & Chemicals in the return are as follows:-</p> <table border="1"> <thead> <tr> <th colspan="4">Returns Originally filed by Mistake</th> </tr> <tr> <th>Month</th> <th>Item</th> <th>Purchase turnover (Rs.)</th> <th>IPT (Rs.)</th> </tr> </thead> <tbody> <tr> <td>May 09</td> <td>Natural Rubber</td> <td>7,72,900.00</td> <td>3,09,196.00</td> </tr> <tr> <td>Jun 09</td> <td>Chemicals</td> <td>28,33,605.00</td> <td>1,53,342.00</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th colspan="4">Returns Subsequently revised</th> </tr> <tr> <th>Month</th> <th>Item</th> <th>Purchase turnover (Rs.)</th> <th>IPT (Rs.)</th> </tr> </thead> <tbody> <tr> <td>May 09</td> <td>Natural Rubber</td> <td>77,29,900.00</td> <td>3,09,196.00</td> </tr> <tr> <td>Jun 09</td> <td>Chemicals</td> <td>38,33,605.00</td> <td>1,53,342.00</td> </tr> </tbody> </table> <p>The dealer has revised the return for 05/09 and 06/09 subsequently. But the annual return has not been made revised.</p> <p>As regards, to the purchase of machinery, the dealer has effected local purchase of machinery having both 4% and 12.5% items. In the return the purchase value of machinery is shown as Rs.64,53,650/- with IPT @4%. Actually, this turnover is the consolidated amount of machinery and parts purchased with several bills having both 4% and 12.5% item.</p>	Returns Originally filed by Mistake				Month	Item	Purchase turnover (Rs.)	IPT (Rs.)	May 09	Natural Rubber	7,72,900.00	3,09,196.00	Jun 09	Chemicals	28,33,605.00	1,53,342.00	Returns Subsequently revised				Month	Item	Purchase turnover (Rs.)	IPT (Rs.)	May 09	Natural Rubber	77,29,900.00	3,09,196.00	Jun 09	Chemicals	38,33,605.00	1,53,342.00
Dealer Name / TIN	Standard Treads Private Ltd 32050571275																																											
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On verification of the purchase register of capital items (Machinery & Parts) it was seen that the dealer has actually eligible for IPT Rs.3,49,789/-. But in the returns filed, this items were not categorized under 4% and 12.5% items but entire purchase turnover is uploaded under 4% category.

The short levy is as follows:-

	<u>IPT</u>
Total purchase 4% as per return - Rs.30,02,80,216.00	Rs.1,24,20,997.00
IPT eligible as per LAR	<u>Rs.1,20,11,209.00</u>
Excess IPT claimed as per LAR	Rs. 4,09,788.00

(I)

Reconciliation and reasons for difference in IPT

1. Natural Rubber

As per the original return 5/09 the purchase value of natural rubber is shown as Rs.7,72,900/- by mistake. But the actual purchase value of natural rubber is Rs.77,29,900/- which was subsequently revised.

	<u>IPT</u>
Difference in value of Rubber 05/09	Rs.69,57,000/-
	Rs. 2,78,280/-

(a)

2. Chemicals

As per the original return 6/09 the purchase value of chemicals is shown as 28,33,605/- by mistake whereas the actual purchase value as Rs.38,33,605/- which was subsequently revised.

	<u>IPT</u>
Difference value of chemicals for 06/09	Rs.10,00,000.00
	Rs.4,000.00 (b)

Difference in tax rates of machinery

Purchases (4%,12.5%)

Actual Purchase Value Rs. 64,53,650.00 IPT Rs.3,49,789.00

i.e

(13,50,923/- x 12.5%) (50,08,064/- x 4%) (1,49,538/- +2,00,251/-)

As per LAR Rs. 6453650 IPT Rs. 2,58,146.00

	Difference	Rs. 91,643.00
	(c)	
	Actual IPT (a+b+c)	Rs.4,09,923.00 (II)
	Net Difference :Rs.135/-(II-I) (4,09,788 - 4,09,923)	
	In this connection, it may be noted that the errors occurred while uploading this purchase turnover of certain items which was subsequently revised. Considering the facts, the audit objection may be waived.	

Para No.	Gist of the case	Present position														
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p> <table border="1" data-bbox="245 1077 662 1458"> <tr> <td>Dealer Name / TIN</td> <td>N.T. Paul & Company 32050235632</td> </tr> <tr> <td>Year</td> <td>2009-10</td> </tr> <tr> <td>Excess input tax claimed (Rs.)</td> <td>276707</td> </tr> <tr> <td>Total including tax, cess and interest (Rs.)</td> <td>424801</td> </tr> <tr> <td>Penalty (Rs)</td> <td>558948</td> </tr> </table>	Dealer Name / TIN	N.T. Paul & Company 32050235632	Year	2009-10	Excess input tax claimed (Rs.)	276707	Total including tax, cess and interest (Rs.)	424801	Penalty (Rs)	558948	<p>Sl.No.6 N.T.Paul & Company <u>32050235632 (2009-10)</u> <u>CTO, Special Circle, Kottayam</u></p>				
Dealer Name / TIN	N.T. Paul & Company 32050235632															
Year	2009-10															
Excess input tax claimed (Rs.)	276707															
Total including tax, cess and interest (Rs.)	424801															
Penalty (Rs)	558948															
		<p>The Accountant General has pointed out that M/s N.T. Paul & Co, Kottayam has availed ITC of Rs.4,07,154/- for purchase amounting to Rs.32,61,175/- which is taxable @4% only. The Assessing Authority has verified the books of accounts of the dealer and it is found that during the month of June 2009, the dealer had effected purchase of 12.5% taxable item amounting to Rs.32,55,375/-. They had availed ITC amounting to Rs.4,06,922/- on the purchase. But the purchase was wrongly shown in the III Schedule under the head of plastic film/plates/sheets/Foil Strips. The actual purchase and ITC claim are as follows:-</p>														
		<table border="1"> <thead> <tr> <th>Tax Rate</th> <th>Purchase Turnover</th> <th>ITC</th> </tr> </thead> <tbody> <tr> <td>12.5%</td> <td>Rs.32,55,375.00</td> <td>Rs.4,06,922.00</td> </tr> <tr> <td>4%</td> <td>Rs. 5,800.00</td> <td>Rs. 232.00</td> </tr> <tr> <td></td> <td>Rs.32,61,175.00</td> <td>Rs.4,07,154.00</td> </tr> </tbody> </table>			Tax Rate	Purchase Turnover	ITC	12.5%	Rs.32,55,375.00	Rs.4,06,922.00	4%	Rs. 5,800.00	Rs. 232.00		Rs.32,61,175.00	Rs.4,07,154.00
Tax Rate	Purchase Turnover	ITC														
12.5%	Rs.32,55,375.00	Rs.4,06,922.00														
4%	Rs. 5,800.00	Rs. 232.00														
	Rs.32,61,175.00	Rs.4,07,154.00														
		<p>The dealer had uploaded the purchase list correctly. Considering the above facts, there is no short levy as pointed out by the Accountant General.</p>														

Para No.	Gist of the case	Present position										
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p> <table border="1" data-bbox="248 1167 663 1552"> <tr> <td data-bbox="248 1167 459 1272">Dealer Name / TIN</td> <td data-bbox="459 1167 663 1272">Kalyan Silks Trichur (P) Ltd. 32080583992</td> </tr> <tr> <td data-bbox="248 1272 459 1323">Year</td> <td data-bbox="459 1272 663 1323">2008-09</td> </tr> <tr> <td data-bbox="248 1323 459 1397">Excess input tax claimed (Rs.)</td> <td data-bbox="459 1323 663 1397">2380630</td> </tr> <tr> <td data-bbox="248 1397 459 1503">Total including tax, cess and interest (Rs.)</td> <td data-bbox="459 1397 663 1503">3943276</td> </tr> <tr> <td data-bbox="248 1503 459 1552">Penalty (Rs)</td> <td data-bbox="459 1503 663 1552">4808873</td> </tr> </table>	Dealer Name / TIN	Kalyan Silks Trichur (P) Ltd. 32080583992	Year	2008-09	Excess input tax claimed (Rs.)	2380630	Total including tax, cess and interest (Rs.)	3943276	Penalty (Rs)	4808873	<p><u>Sl.No.7 Kalyan Silks Trichur (P) Ltd</u> <u>32080583992(2008-09)</u> <u>CTO, Special Circle, Trissur</u></p> <p>The audit objection has been verified with annual return and accounts filed by the assessee. Considering the audit objection, a notice u/s. 25A dated 06.10.2015 was issued to the assessee and in response to the notice, the dealer filed a detailed reply. The reply filed by the assessee was verified and the assessing authority observed the following facts.</p> <p>The original annual return was filed by the dealer on 25.05.2009 through KVATIS and later on 23.12.2009, the dealer revised the annual return by filing manually. As per the revised annual return and audit report, the total sales and purchase turnover is Rs. 2,87,98,68,032/- and Rs. 2,23,31,89,656/- respectively.</p> <p>On verification it is seen that the local purchase turnover of readymade garment is Rs.11,12,38,021/- and the corresponding IPT claim is Rs.44,49,251/-. Out of the total claim of Rs.67,01,590/-, IPT claim on local purchase of readymade garments comes to Rs.44,49,529/- only. The balance claim of IPT pertains to the local purchase of other commodities such as bags, toys, cosmetics, watches, packing materials which are taxable @ 4% as well as 12.5%. The claim of IPT of Rs.67,01,590/- is inclusive of the IPT on the purchase of other goods which are taxable at 4% and 12.5% and not wholly related to the purchase of readymade garments only.</p> <p>The dealer filed annual return in form No.10 and audited statements in form No.13 &13A for the year 2008-09 disclosing a total turnover of Rs.2,87,98,68,032/-. As per the annual return, the total local sales turnover for the year was Rs.2,85,95,04,228/- and the OPT due was Rs.3,84,45,436/-. The total claim of IPT on local purchase was Rs.67,67,350/-</p>
Dealer Name / TIN	Kalyan Silks Trichur (P) Ltd. 32080583992											
Year	2008-09											
Excess input tax claimed (Rs.)	2380630											
Total including tax, cess and interest (Rs.)	3943276											
Penalty (Rs)	4808873											

leaving net tax payable for Rs.3,16,78,086/- against which paid Rs.3,16,93,548/-. As per the above return and accounts, the local purchase turnover of ready made garments is Rs.11,12,38,021/- and the corresponding IPT claim is Rs.44,49,521/- only instead of the purchase turnover and IPT claim pointed out in audit for Rs.11,26,44,248/- and Rs.68,86,400/- respectively. It may also be noted that the total IPT claim on local purchase as per annual return and audited statements in Form 13 & 13A is Rs.67,01,590/- only . Out of total IPT claim of Rs.67,01,590/-, IPT claim on local purchase of readymade garments comes to Rs.44,49,521/- only. The balance claim of IPT pertains to the local purchase of other commodities such as bags, toys , cosmetics, watches , packing materials which are taxable @4% as well as 12.5%. The total local purchase and the claim of IPT as per Part C of the annual return is extracted below for ready reference.

PART C- TURNOVER PURCHASES OTHER THAN 4TH SCHEDULE GOODS

COMMODITY	SCH	RAT	PURCHAS	TAX	TOTAL	INPUT
Local Purchase	EDU LE	E OF TAX	E VALUE	PAID ON PURCHA SE		TAX ELIGIB LE FOR SET OFF
TEXTILES	1	NIL	6,52,52,546. 00	0	6,52,52,546. 00	0
READYM ADES	3	4%	10,80,80,51 7.00	43,23,228 .00	11,24,03,74 5.00	4,32,33,2 21.00
TOYS	3	4%	11,44,048.0 0	45,758.00	11,89,806.0 0	45,762.0 0
SCHOOL BAGS	3	4%	14,035.00	5,607.00	1,45,912.00	5,612.00
STICHD READYM ADE GARMEN TS	3	4%	31,57,504.0 0	1,26,302. 00	32,83,806.0 0	1,26,300. 00
PACKING MATERIA LS	3	4%	20,04,202.0 0	80,165.00	20,84,367.0 0	31,803.0 0

READYM ADES	5	12.5 %	1,54,825.00	19,354.00	1,74,179.00	19,353.0 0
COSMETI CS	5	12.5 %	70,32,403.0 0	8,79,048. 00	79,11,451.0 0	8,79,050. 00
TOYS	5	12.5 %	75,978.00	9,495.00	85,473.00	9,497.00
WATCHES	5	12.5 %	47,72,935.0 0	5,96,613. 00	53,69,548.0 0	5,96,617. 00
BAGS	5	12.5 %	12,95,539.0 0	1,61,940. 00	14,57,479.0 0	1,61,942. 00
PACKING MATERIA LS	5	12.5 %	1,24,73,908. 00	12,65,698. .00	1,37,39,606. 00	5,02,433. 00
TOTAL			20,55,84,71 0.00	75,13,208 .00	21,30,97,91 8.00	67,01,59 0.00

From the above table it is evidently clear that the total IPT paid on local purchases is Rs.75,13,208/- and the IPT eligible for set off claimed by the assessee is Rs.67,01,590/- only. It is also evident that the local purchase value of readymade garments for the year 2008-09 is Rs.11,12,38,021/- only and the the input tax claimed is Rs.44,49,530/- only. Hence there is no excess input tax claim in this case.

Para No.	Gist of the case	Present position										
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p> <table border="1" data-bbox="240 1003 772 1451"> <tr> <td data-bbox="240 1003 507 1126">Dealer Name / TIN</td> <td data-bbox="507 1003 772 1126">Yamuna Roller Flour Mills 32080224835</td> </tr> <tr> <td data-bbox="240 1126 507 1182">Year</td> <td data-bbox="507 1126 772 1182">2009-10</td> </tr> <tr> <td data-bbox="240 1182 507 1272">Excess input tax claimed (Rs.)</td> <td data-bbox="507 1182 772 1272">2,44,888/-</td> </tr> <tr> <td data-bbox="240 1272 507 1395">Total including tax, cess and interest (Rs.)</td> <td data-bbox="507 1272 772 1395">3,75,952/-</td> </tr> <tr> <td data-bbox="240 1395 507 1451">Penalty (Rs)</td> <td data-bbox="507 1395 772 1451">4,94,673/-</td> </tr> </table>	Dealer Name / TIN	Yamuna Roller Flour Mills 32080224835	Year	2009-10	Excess input tax claimed (Rs.)	2,44,888/-	Total including tax, cess and interest (Rs.)	3,75,952/-	Penalty (Rs)	4,94,673/-	<p>Sl.No.8 Yamuna Roller Flour Mills 32080224835(2009-10) CTO, Special Circle, Thrissur</p> <p>The assessment in respect of M/s Yamuna Roller Flour Mills (P) Ltd for the year 2009-10 was completed vide Order No.32080224835/2009-10 dated 14-10-2011 by considering the objections pointed out and created an additional demand of tax Rs.39,57,174/- and interest Rs.7,12,921/-. The assessee remitted Rs.14,00,840/-. The appeal filed against this assessment order was partly modified by the Deputy Commissioner (Appeals) - I, Ernakulam. The assessee filed 2nd appeal before the KVAT Appellate Tribunal. The Tribunal as per order in TA (VAT) No.463/2013 dated 18.12.2015 disposed the appeal with direction to modify the assessment by deleting the sales turnover estimated on the basis of purchase turnover reported as per returns and also directed the assessee to produce reconciled statement between return and accounts and other evidences in support of the purchase turnover claimed and the assessing authority shall verify and consider in accordance with law. Accordingly, the books of accounts verified and found that the purchase list produced are agree with the audited statement filed, thus the assessment for the year 2009-10 was modified as per order dated 30.06.2018 with excess of Rs.14,34,571/-. As per the modified assessment order, the audit objection noted is reconciled properly and therefore not sustainable.</p>
Dealer Name / TIN	Yamuna Roller Flour Mills 32080224835											
Year	2009-10											
Excess input tax claimed (Rs.)	2,44,888/-											
Total including tax, cess and interest (Rs.)	3,75,952/-											
Penalty (Rs)	4,94,673/-											

Para No.	Gist of the case	Present position										
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p> <table border="1" data-bbox="244 1137 662 1518"> <tr> <td data-bbox="244 1137 454 1238">Dealer Name / TIN</td> <td data-bbox="462 1137 662 1238">Popy Umbrella Mart 32040269425</td> </tr> <tr> <td data-bbox="244 1249 454 1283">Year</td> <td data-bbox="462 1249 662 1283">2008-09</td> </tr> <tr> <td data-bbox="244 1294 454 1361">Excess input tax claimed (Rs.)</td> <td data-bbox="462 1294 662 1361">182276</td> </tr> <tr> <td data-bbox="244 1373 454 1473">Total including tax, cess and interest (Rs.)</td> <td data-bbox="462 1373 662 1473">301922</td> </tr> <tr> <td data-bbox="244 1485 454 1518">Penalty (Rs)</td> <td data-bbox="462 1485 662 1518">368198</td> </tr> </table>	Dealer Name / TIN	Popy Umbrella Mart 32040269425	Year	2008-09	Excess input tax claimed (Rs.)	182276	Total including tax, cess and interest (Rs.)	301922	Penalty (Rs)	368198	<p>Sl No.9 Popy Umbrella Mart <u>32040269425(2008-09)</u> <u>CTO, Special Circle, Alappuzha</u></p> <p>The assessee filed monthly return for the month of April 2008 conceding purchase turnover of Rs.30,594/- and claimed input tax for Rs.93,406/-. The assessing authority issued notice for rejecting the claim of Input tax of Rs.92,172/-. Subsequently the assessee filed reply stating that they have purchase DEPB license for Rs.23,04,300/- with an Input tax Rs.92,172/-. Since the assessing authority has not accepted Input tax on purchase of DEPB License, an amount of Rs.92,172/- had remitted on 9-5-2008. Subsequently the assessee filed revised annual return including the purchase of DEPB License and claimed Input Tax in the entire purchase amount of Rs.2,24,79,842/- claiming input tax Rs.9,89,298/- including tax paid Rs.92,172/- during April 2008.</p> <p>Notice u/s. 25(1) was issued proposing to reject excess ITC as pointed out by AG. In reply to the pre-assessment notice, the dealer explained for the difference in purchase turnover reported in the Annual return and audited financial statements. The value of purchase as per annual return did not reflect the purchase value of licenses for the return period April 2008. The dealer filed a reconciliation statement showing the actual local purchase Rs.27,78,98,163/- The omission was correctly rectified by filing a reconciliation along with the audit report which is in line with Section 42 of the KVAT Act, 2003. Assessment was completed on 24.03.2014 accepting the explanation filed by the dealer. The Copy of annual return and assessment order attached. In the circumstances stated above, there is no short levy of tax due to excess claim of Input tax.</p>
Dealer Name / TIN	Popy Umbrella Mart 32040269425											
Year	2008-09											
Excess input tax claimed (Rs.)	182276											
Total including tax, cess and interest (Rs.)	301922											
Penalty (Rs)	368198											

Para No.	Gist of the case	Present position										
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p> <table border="1" data-bbox="247 1187 662 1579"> <tr> <td data-bbox="247 1187 454 1288">Dealer Name / TIN</td> <td data-bbox="454 1187 662 1288">Wilton Weavers Pvt. Ltd. 32040888614</td> </tr> <tr> <td data-bbox="247 1288 454 1344">Year</td> <td data-bbox="454 1288 662 1344">2008-09</td> </tr> <tr> <td data-bbox="247 1344 454 1422">Excess input tax claimed (Rs.)</td> <td data-bbox="454 1344 662 1422">1,18,739/-</td> </tr> <tr> <td data-bbox="247 1422 454 1523">Total including tax, cess and interest (Rs.)</td> <td data-bbox="454 1422 662 1523">1,96,679/-</td> </tr> <tr> <td data-bbox="247 1523 454 1579">Penalty (Rs)</td> <td data-bbox="454 1523 662 1579">2,39,852/-</td> </tr> </table>	Dealer Name / TIN	Wilton Weavers Pvt. Ltd. 32040888614	Year	2008-09	Excess input tax claimed (Rs.)	1,18,739/-	Total including tax, cess and interest (Rs.)	1,96,679/-	Penalty (Rs)	2,39,852/-	<p>Sl.No.10 <u>Wilton Weavers Pvt Ltd</u> <u>32040888614(2008-09)</u> <u>CTO, Special Circle, Alappuzha</u></p> <p>M/s Wilton Weavers (Pvt) Ltd, Cherthala is an assessee on the rolls of commercial Tax Officer, Cherthala. The assessee is engaged in the business of export sales of coir products and flooring materials. On annual return scrutiny for the year 2008-09 it is found that the assessee has effected purchase for the value of Rs.74,61,985/- @4%. But the input tax claimed by the assessee is Rs.4,17,218/-. Hence notice under section 25(1) of the KVAT Act 2003 was issued to the dealer on 21-10-2015. The dealer filed reply stating that they had showed a total input tax eligible for set off under schedule II for Rs.4,17,218/- against the purchase of Rs.74,61,985/-. The purchase turnover include purchase taxable @12.5% also. The assessing authority verified the books of accounts and found that the contention of the dealer was found to be genuine. Moreover, they had filed 21J declaration for Rs.3,66,563/- in support of the input tax claim and the same was refunded to the assessee with light of refund application in form 21C. The assessee also filed revised annual return along with audited statement.</p>
Dealer Name / TIN	Wilton Weavers Pvt. Ltd. 32040888614											
Year	2008-09											
Excess input tax claimed (Rs.)	1,18,739/-											
Total including tax, cess and interest (Rs.)	1,96,679/-											
Penalty (Rs)	2,39,852/-											

Para No.	Gist of the case	Present position										
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p>	<p>Sl.No.11 Agasthiacode Rubber Traders <u>32021455274(2009-10)</u> <u>CTO, Special Circle, Kollam</u></p> <p>The audit objection has been raised against Agasthiacode Rubber Traders regarding excess claim of Input Tax Credit. On verification of the assessment records the following facts were noted.</p> <p>During the year 2009-10, rate of tax of rubber is 4%, Rubber board cess is Rs.60 per thousand Kgs of rubber and also there is social security cess @1%. As per KVAT circular No.7/05 of Commissioner, Commercial Taxes, cess on Rubber forms part of the turnover and VAT is liable to be paid on the said cess. During the year the assessee had purchased 1257202 kg of rubber sheet from registered dealers valuing Rs.13,98,90,265/- and VAT due @4% is Rs.55,95,611/- . Rubber board cess paid by the dealer is Rs.74,432/- . i.e (Rs.1257202/1000) x 60) and social security cess paid by the assessee @1% is Rs.55,708/- . These three amounts(55,95,611 +74,432 + 55,708 = 57,25,658) is availed by the assessee as IPT. Since the dealer is eligible for IPT on these three amounts, there is no excess claim of IPT. The assessee had paid Rubber Board Cess and Social Security Cess on the sales quantity of Rubber sheet and scrap(5435000 Kg + 120700 Kg) during the financial year 2009-10.</p>										
	<table border="1"> <tr> <td data-bbox="247 1164 454 1265">Dealer Name / TIN</td> <td data-bbox="462 1164 670 1265">Agasthiacode Rubber Traders 32021455274</td> </tr> <tr> <td data-bbox="247 1276 454 1310">Year</td> <td data-bbox="462 1276 670 1310">2009-10</td> </tr> <tr> <td data-bbox="247 1321 454 1400">Excess input tax claimed (Rs.)</td> <td data-bbox="462 1321 670 1400">1,30,047/-</td> </tr> <tr> <td data-bbox="247 1411 454 1500">Total including tax, cess and interest (Rs.)</td> <td data-bbox="462 1411 670 1500">1,99,649/-</td> </tr> <tr> <td data-bbox="247 1512 454 1556">Penalty (Rs)</td> <td data-bbox="462 1512 670 1556">2,62,696/-</td> </tr> </table>	Dealer Name / TIN	Agasthiacode Rubber Traders 32021455274	Year	2009-10	Excess input tax claimed (Rs.)	1,30,047/-	Total including tax, cess and interest (Rs.)	1,99,649/-	Penalty (Rs)	2,62,696/-	
Dealer Name / TIN	Agasthiacode Rubber Traders 32021455274											
Year	2009-10											
Excess input tax claimed (Rs.)	1,30,047/-											
Total including tax, cess and interest (Rs.)	1,99,649/-											
Penalty (Rs)	2,62,696/-											

Para No.	Gist of the case	Present position										
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p> <table border="1" data-bbox="247 1187 670 1635"> <tr> <td data-bbox="247 1187 454 1355">Dealer Name / TIN</td> <td data-bbox="454 1187 670 1355">Koroth Padmanabhan Co (Cement) Pvt. Ltd. 32111211712</td> </tr> <tr> <td data-bbox="247 1355 454 1400">Year</td> <td data-bbox="454 1355 670 1400">2010-11</td> </tr> <tr> <td data-bbox="247 1400 454 1478">Excess input tax claimed (Rs.)</td> <td data-bbox="454 1400 670 1478">21,36,330/-</td> </tr> <tr> <td data-bbox="247 1478 454 1579">Total including tax, cess and interest (Rs.)</td> <td data-bbox="454 1478 670 1579">30,20,770/-</td> </tr> <tr> <td data-bbox="247 1579 454 1635">Penalty (Rs)</td> <td data-bbox="454 1579 670 1635">43,15,386/-</td> </tr> </table>	Dealer Name / TIN	Koroth Padmanabhan Co (Cement) Pvt. Ltd. 32111211712	Year	2010-11	Excess input tax claimed (Rs.)	21,36,330/-	Total including tax, cess and interest (Rs.)	30,20,770/-	Penalty (Rs)	43,15,386/-	<p>Sl.No.12 <u>Koroth Padmanabhan Co(Cement)Pvt. Ltd.</u> <u>32111211712(2010-11)</u> <u>CTO, Special Circle II, Kozhikode</u></p> <p>The assessing authority verified the objection along with the books of accounts of the dealer for the assessment year 2010-11. As per the books of accounts maintained by the dealer and the audited statement filed, purchase value is Rs.18,36,37,066/- and input tax paid is Rs.2,29,53,498/- but as per annual return it is Rs.16,65,37,065/- and Rs.2,29,53,463/-. On verification of monthly return it is found that for the month of December 2010 and the purchase value reported is Rs.18,09,244/- and input tax claimed is Rs.23,63,535/-. But as per purchase list uploaded along with monthly return it is found that the purchase value is Rs.1,89,09,244/-. One digit '9' omitted while filing monthly return. Hence this omission results difference of Rs.1,71,00,000/- in purchase value reported in the annual return. Actual purchase value as per Books of Accounts, and Audited statement, value submitted before Deputy Commissioner (Appeals), Kozhikode in VATA 1109/12 (order dated 14-02-2014) and before KVAT/STAT, Additional Bench, Kozhikode in TA (VAT) No.657/2014 (order dated 12-01-2015) and as per statement filed along with monthly return is Rs.18,36,37,066/-. Hence difference is only due to typographical error while filing monthly return for December 2010.</p>
Dealer Name / TIN	Koroth Padmanabhan Co (Cement) Pvt. Ltd. 32111211712											
Year	2010-11											
Excess input tax claimed (Rs.)	21,36,330/-											
Total including tax, cess and interest (Rs.)	30,20,770/-											
Penalty (Rs)	43,15,386/-											

Para No.	Gist of the case	Present position
2.6.1	<p>As per annual returns filed by 13 dealers in eight CTO's, Audit found that the assessee availed input tax credit for the purchases made by them in excess of what was actually due to them. The assessing authority did not select the case for revised assessment to rectify the defect. This resulted in short levy of tax, cess and interest of Rs.2.40 crore. Penalty upto Rs.3.01 crore was also leviable in these cases.</p>	<p>Sl.No.13 <u>Kakkassery Agencies</u> <u>32090544573 (2009-10)</u> <u>CTO, I Circle, Palakkad.</u></p> <p>Regarding the short levy due to excess claim of input tax credit, the assessment was completed on 30-06-2012 creating an additional demand of Rs. 46450/-. The dealer remitted the Rs.46,450/- vide chalan No.923 dated 10-08-2012. In the circumstances, the audit objection may be dropped.</p>
Dealer Name / TIN	Kakkassery Agencies 32090544573	
Year	2009-10	
Excess input tax claimed (Rs.)	124341	
Total including tax, cess and interest (Rs.)	190888	
Penalty (Rs)	251168	

Para No.	Gist of the case	Present position																					
2.6.2 (a)	<p>Kind attention is invited to the references cited. The audit report scrutiny at the office of the Assistant Commissioner, Special Circle, Kozhikode revealed certain irregularities in respect of M/s. Parisons Foods (P) Ltd., Kozhikode leading to a short levy of tax due to excess claim of input tax credit / special rebate not allowed. The assessee was a dealer in Edible Oil, Coconut Oil, Industrial Input etc.</p> <p>The audit showed that during 2010-11 interstate stock transfer constituted 17.78 per cent of its disposal of goods excluding trading of coconut oil and high sea sale. Total local purchase excluding coconut oil being Rs. 55.92 crore local purchase proportionate to stock transfer for which ITC to be disallowed was Rs. 9.94 crore. Failure to disallow four per cent tax input tax on that turnover resulted in short levy of tax, cess and interest of Rs. 46.99 lakh.</p>	<p>In pursuance of the audit objection the assessing authority checked the accounts of the above dealer for the year 2010-11 which revealed the following.</p> <p>Separate stock registers maintained for crude palm oil imported from outside the country and purchased locally. As per the stock register maintained by the dealer palm oil for consignment transfer is effected only from the imported palm oils kept after refining for which separate account is seen maintained and that local sales effected from the locally purchased oil kept after refining. This being the fact the short levy of tax for Rs. 46,99,491.00 as stated as per the audit para is not existing</p> <p>The verification of the books of account revealed the following:-</p> <p><u>I. Details of imported Crude Palm Oil:-</u></p> <table border="1" data-bbox="770 1357 1477 1883"> <thead> <tr> <th></th> <th>Quantity in M.T</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>Opening Stock</td> <td>494.372</td> <td>Rs. 1,81,48,628.83</td> </tr> <tr> <td>Receipts</td> <td><u>53648.070</u></td> <td>Rs. 1,96,94,45,903.00</td> </tr> <tr> <td>Total</td> <td>54142.442</td> <td></td> </tr> <tr> <td>Refined Sale</td> <td>53619.019</td> <td>Rs. 1,96,83,79,427.00</td> </tr> <tr> <td>Closing Stock</td> <td>NIL</td> <td></td> </tr> <tr> <td></td> <td>523.423</td> <td>Rs. 1,92,15,104.72</td> </tr> </tbody> </table> <p>From the above imported crude Palm Oil (53619.019 MT). RBD Palm Oil, RBD Palmoilein and Palm Fatty Acid are obtained by refining. The details are as under.</p>		Quantity in M.T	Value	Opening Stock	494.372	Rs. 1,81,48,628.83	Receipts	<u>53648.070</u>	Rs. 1,96,94,45,903.00	Total	54142.442		Refined Sale	53619.019	Rs. 1,96,83,79,427.00	Closing Stock	NIL			523.423	Rs. 1,92,15,104.72
	Quantity in M.T	Value																					
Opening Stock	494.372	Rs. 1,81,48,628.83																					
Receipts	<u>53648.070</u>	Rs. 1,96,94,45,903.00																					
Total	54142.442																						
Refined Sale	53619.019	Rs. 1,96,83,79,427.00																					
Closing Stock	NIL																						
	523.423	Rs. 1,92,15,104.72																					

RDB Palmoil

	Quantity in MT	Value
Opening Stock	682.716	Rs. 2,82,16,646.51
Receipts	<u>17009.164</u>	Rs. 70,29,88,604.30
Total	17691.880	
Sale	3920.205	Rs. 16,73,84,969 (Local Sale)
Consignment (Stock Transfer Out)	11752.675	Rs. 54,01,18,015.00
Issue for packing	1024.590	Rs. 4,23,46,296.03
Issue for Vanaspati (Manufacturin g)	850.166	Rs. 3,51,37,353.59
Closing Stock	144.244	Rs. 59,61,603.30

RBD Palm Oilein

Opening Stock	496.066	Rs. 2,29,39,083.97
Receipts	<u>33242.921</u>	Rs. 1,53,72,19,153.00
Total	33738.987 =====	
Sales	29157.330	
	28742.575 (Local Sale)	Rs. 1,37,31,11,814 (Local Sale)
	414.755 (Interstate sale)	Rs. 2,08,69,140 (Interstate Sale)
Consignment	NIL	
Issue for packing	4302.261	Rs. 19,89,45,153.20

Issue for Vanaspathi	-	
Closing Stock	279.396	Rs. 1,29,19,829.83

Palm Fatty Acid (Import)

Receipts	<u>2187.957</u>	Rs. 8,50,06,505.36
Total	2207.710	
Sales	2165.010	
	487.750 (Local Sale)	Rs. 1,95,77,233 (Local Sale)
	1677.260 (Interstate sale)	Rs. 6,32,66,681 (Interstate sale)
Consignment	NIL	
Closing Stock	42.700	Rs. 16,58,980.40

II. The details of imported Crude Palm Kernal is as under:-

	Quantity in MT	Value
Opening Stock	308.415	Rs. 1,90,75,855.48
Receipts	995.080	Rs. 6,15,46,949.00
Total	1303.495	
Refined	1303.495	8,06,22,804.48
Sales	NIL	
Closing Stock	NIL	

From the above imported crude palm Kernal (1303.495 MT), RBD Palm Kernal Oil, Palm Kernal Fatty Acid are obtained by refining. The details are as

under:-

RBD Palm	313.608	Rs.
Kernal Oil		1,99,22,889.02
Receipts	1252.479	Rs.
		7,95,67,485.91
Total	1566.087	
Sales	1122.055	
	(Local Sale 929.875)	Rs. 6,10,28,559.00 (Local Sale)
	(Interstate sale 192.180)	Rs. 1,57,64,544.00 (Interstate sale)
Consignment	207.640	Rs. 1,47,60,231.00
Issue for Vanaspathi manufacturing	236.392	Rs. 1,50,17,510.98
Closing Stock	NIL	

Palm Kernal Fatty Acid

	Quantity in MT	Value
Opening Stock	16.464	Rs. 7,51,828.56
Receipts	38.110	Rs. 17,40,293.15
Total	54.574	
Sales	51.815	Rs. 24,44,485.00 (Local Sale)
Consignment	NIL	
Closing Stock	2.759	Rs. 1,25,989.74

Thus interstate consignment transfer during 2010-11 is as under :-

RBD Palm Oil	11752.6 75	Rs. 54,01,18,015.00
RBD Palm Kernal Oil	207.640	Rs. 1,47,60,231.00
Interstate Stock transfer of Refined Palm Oil		Rs. 55,48,78,246.00 =====

The dealer has not effected any import or interstate stock transfer out of coconut oil during the year 2010-11. So it is clear that consignment transfer is effected only from import purchase. Since the stock transfer is from import purchase, the matter of disallowance of input tax has no merit. So there is no short levy in this draft paragraph.

The quantitative details of Edible Oil and Inedible Oil certified by the Chartered Accountant also agree with this conclusion.

Para No.	Gist of the case	Present position												
2.6.2 (b)	<p>M/s. E.V. Mathai & Sons, Kothamangalam was a dealer in rubber sheets and rubber products. During 2011-12, the sales turnover conceded by the assessee was Rs.124.32 crore. Out of this, taxable sale was for Rs.46.68 crore (37.55 per cent) and the balance of Rs.77.64 crore (62.45 per cent) was exempted as inter-state sale. The assessee availed excess input tax credit and paid less purchase tax resulted in short payment of tax, cess and interest of Rs.11.95 lakhs.</p>	<p><u>M/s E.V. Mathai & Sons, Kothamangalam</u> <u>32150384302 (2011-12)</u> <u>CTO, Special Circle ,Perumbavoor</u></p> <p>M/s E.V. Mathai & Sons, a Rubber dealer is an assessee on the rolls of Special Circle , Perumbavoor bearing TIN 32150384302. During the year the dealer filed annual return reporting total and taxable turnover of Rs.1243167451/- and 466760600/- respectively. While conducting audit by the AG's (Audit) Wing, recorded an objection which was as follows:-</p> <p>As per provision to Section 11(3) of the KVAT Act 2003, where any goods purchased in the state are subsequently sent to outside the state or used in the manufacture of goods and the same are sent outside the state otherwise than by way of sale in the course of interstate or where the sale in the course of interstate trade is exempted from tax., the input tax credit shall be limited to the amount of input tax paid in excess of four percent, on the purchase turnover of such goods sent outside the state.</p> <p>Thus the assessee was eligible for availing input tax credit/special rebate on the ratio of taxable local sales turnover alone for which the purchases were made from both registered and unregistered dealers. However the assessee had availed input tax credit/special rebate more than the ratio of local sales turnover. This has resulted in availing excess input tax credit/special rebate/short levy of tax under section 6(2) of the Act which calculated Rs.12,05,665 as shown below:-</p> <p>A. Excess Input Credit availed</p> <table border="1" data-bbox="624 1816 1509 2128"> <thead> <tr> <th></th> <th>Excess IPT availed</th> </tr> </thead> <tbody> <tr> <td>Local purchase from VAT dealers</td> <td>114,82,51,456</td> </tr> <tr> <td>Local Sales turnover</td> <td>46,67,60,600</td> </tr> <tr> <td>Exempted interstate sale</td> <td>77,64,06,851</td> </tr> <tr> <td>Total sales turnover during 2011-12</td> <td>124,31,67,451</td> </tr> <tr> <td>Ratio of local sales turnover (Local sales x</td> <td>37.55%</td> </tr> </tbody> </table>		Excess IPT availed	Local purchase from VAT dealers	114,82,51,456	Local Sales turnover	46,67,60,600	Exempted interstate sale	77,64,06,851	Total sales turnover during 2011-12	124,31,67,451	Ratio of local sales turnover (Local sales x	37.55%
	Excess IPT availed													
Local purchase from VAT dealers	114,82,51,456													
Local Sales turnover	46,67,60,600													
Exempted interstate sale	77,64,06,851													
Total sales turnover during 2011-12	124,31,67,451													
Ratio of local sales turnover (Local sales x	37.55%													

100/Total sales turnover) i.e Rs.46,67,60,600 x 100/124,31,67,451	
Ratio of inter-state sales turnover: Rs.776406851 x 100/124,31,67,451	62.45%
Tax @4% on local purchase from VAT registered dealers Rs.1148251456/-	4,59,30,058
Input tax to be eligible on the ratio of local sales-37.55% i.e.37.55% of Rs.4,59,30,058	1,72,46,736
Less: input tax credit availed as per annual return	17777622
Excess IPT credit availed	5,30,885
Add: Cess on the above @1%	5,309
Interest @15% respectively	80,429
Short levy of Tax, Cess and interest	6,16,623

B. Short levy of tax under section 6(2) of the Act.

Local purchase from unregistered dealers	6,59,50,291
Local sales turnover	46,67,60,600
Exempted interstate sales	77,64,06,851
Total sales turnover during 2011-12	1,24,31,67,451
Ratio of interstate sales turnover : i.e 776406851 x 100/1243167451	62.45%
Tax @4% payable under section 6(2) on purchase turnover from unregistered dealers Rs. 6,59,50,291 at the ratio of exempted interstate sales i, e. 65950291 x 62.45% = Rs.4,11,85,956 x 4%	1647438
Tax paid u/s 6(2) of the Act as per annual return	11,40,299
Short levy of tax under section 6(2) of the Act	5,07,139
Add: Cess on the above @1%	5,071
Interest @15% respectively	76,832
Short levy of tax,cess and interest	5,89,042

The audit objection made on the basis of the ratio of local sales and

interstate sales that excess input tax credit over and above the eligible amount availed is not correct. In this case it is pertinent to note that the cost of goods sold locally and interstate would certainly vary for the reason that while effecting local sales, the assessee is eligible for input tax credit on the tax paid on purchases. But when interstate sale is effected, which is exempted as per SRO 804/2008 and SRO 753/2011 the assessee is not eligible for input tax credit on the tax paid on purchases which ultimately result in increase in the cost of goods as the tax element also added into the cost of goods sold when compared to local sales. The following illustration would show the position.

If sheet rubber is purchased for Rs.100 paying tax @4%, the cost of goods purchased for local sales is Rs.100 only as the assessee is eligible for input tax credit of Rs.4. But the same rubber when sold interstate, the cost of goods purchased for inter-state sales would be Rs.104 considering the input tax paid on purchase for which no input tax credit available. Thus the factual position is that, the sale price of rubber sold locally would be lesser than that rate sold interstate. Thus the sale price of one kilogram of rubber sold interstate would be higher than the price of one kilogram of rubber sold locally. So the bifurcation of corresponding ITC based on the ratio of the total sales turnover would be unscientific and incorrect for the reason that it would allocate higher percentage of input tax to the purchases for inter-state sales than that actually allowable. This is illustrated below:-

Nature of Sale	Purchase Price	Tax paid on purchase	Sale price fixed adding GP@10%	Ratio in total sales	IPT when divided in the ratio of sale price	IPT correctly divided
Local sales	Rs.100	Rs.4	Rs.110	49.02%	Rs.3.92	Rs.4
Inter-	Rs.100	Rs.4	Rs.115	50.98%	Rs.4.08	Rs.4

state sales						
Total sales	Rs.200	Rs.8	Rs.225	100%	Rs.8	Rs.8

(When local sale is effected, the dealer is eligible for ITC of Rs.4 and hence the sale price adding gross profit @10% is only Rs.110.)

The above illustration would show that if the IPT is correctly worked out, the assessee is eligible of ITC of Rs.4 on the local sales and not Rs.3.92 as worked out by the Audit in the ratio of local sales and inter-state sales. Same is the case with 6(2) purchase as the dealer is eligible for special rebate for the 6(2) tax paid for purchases from unregistered dealers for the local sales and not eligible for special rebate for inter-state sales which result in the increase in the cost of goods purchased for inter-state sales. From this it is evidently proved that the computation made by the Audit party is factually incorrect and unscientific.

Monthwise statement of purchase

Local Sales VAT				Inter-state sales		
Month	Quantity	Amount	percent age	Quantity	Amount	percent age
April	316500	73784760	233.12	39500	9208240	233.12
May	76300	16693624	218.78	224200	49050476	218.78
June	196300	42617544	217.10	338200	73416456	217.08
July	249700	52152630	208.86	364300	76102270	208.90
August	218400	43479436	199.08	250800	49929264	199.08
Septem ber	108525	22447887.5	206.84	313700	64529200	205.70
October	213950	43270590	202.24	417800	84479160	202.20
Novemb er	129650	24993020.5	192.77	338350	65223730	192.77
Decemb er	145400	27603020	189.84	387000	73468080	189.84
January	NIL	NIL	Nil	470000	87604500	186.39
February	212800	39362850	184.97	191000	35325450	184.95
March	288300	54252155	188.17	152350	28672270	188.20
	2155825	440657517		3487200	697009096	

1. Purchase turnover as per annual return

Purchase from registered dealers :Rs.114,77,38,563.00

Purchase from unregistered dealers :Rs. 6,59,50,291.00

Purchase turnover packing materials :Rs. 5,12,894.00

Total : Rs.121,42,01,748.00

(The assessee not availed tax paid on the purchase of packing materials of Rs.5,12,894/-.)

II. Quantitative statement of purchase & sales with turnover conceded

	Quantity	Value
Opening Stock	78579 Kg	17293236
Purchase	6012502 Kg	1213648855
Closing Stock	5948160 Kg	1243167451
Storage	57 Kg.	

III Statement of quantity purchased and value

Quantity	From VAT Dealers	Unregistered Dealers	Total
Local sales	2155825 Kg	210327 Kg	2366152 Kg
Inter-state sales	3487200 Kg	159150 Kg	3646350 Kg
Total	5643025 Kg	369477 Kg	6012502 Kg
Value			
Local sales	444440567	37442817	481883384
Inter-state sales	703297996	28507475	731805471
Total	1147738563	65950292	12113688855

IV Purchase value and sales turnover including rubber cess turnover bifurcated as under:-

Purchase Value	Rubber Cess Turnover	Total
440657517	3783050	444440567
37063936	378881	37442817
697009096	6288900	708297996
28219925	287550	28507476

Sales Turnover		
462753380	4007220	466760600
769753401	6653450	776406851

There are separate accounts already maintained by the assessee for the purchases effected for local sales as well as for inter-state sales both in quantity wise and value wise. Hence the opportunity of IPT and 6(2) tax on the ratio of local sales and inter-state sales is not required in this case as in the case of assessee having no separate accounts. The infection of SRO 804/2008 as amended in SRO 783/11 is to ensure that whenever rubber is sold inter-state, scheduled rate of tax @4% is to be levied on the purchase turnover and not 2% tax on inter-state sales. So if 4% tax received on the corresponding purchase turnover of rubber sold inter-state, there is no short levy. In this case, the legislative intention is satisfied and no short levy as detailed below for the year 2011-12.

Total purchase from registered dealers	Rs.1,14,82,51,457.00
Input tax paid	Rs. 4,59,30,059.00
Input tax @4% claimed on the turnover of local sale of Rs.444440567/- purchases effected from Registered VAT dealers	Rs. 1,77,77,623.00
Total purchase from unregistered dealers	Rs. 6,59,50,292.00
Inter-state sales turnover	Rs. 2,85,07,475.00
Purchase tax due	Rs. 11,40,299.00
Purchase tax paid	Rs. 11,40,299.00

From the above, it may be seen that the actual position of purchase, sales and closing stock as evidenced from the books of accounts of the dealer would indicate that there is no excess IPT or short levy of special rebate availed by the dealer corresponding to the exempted inter-state sales vide SRO/804/08. The audit team calculated the quantitative analysis on a percentage basis which can only be resorted to in the case of dealers having no separate accounts to prove the genuineness of the claim.

No revenue loss occurred in this case. No special rebate availed by the dealer.

Para No.	Gist of the case	Present position
2.6.2(c)(1)	<p>M/s. Bushra Plywoods & Wood Industries and Jas Plywood, Kannur were Small Scale Industrial (SSI) units eligible for exemption from payment of CST. The assessee availed benefit of CST exemption during the years 2005-06 and 2006-07. Since their interstate sales were exempted from payment of tax, the input tax of four per cent on purchase proportionate to exempted interstate sales should have been disallowed. Audit found that the assessing authority allowed the input tax paid by the assessee in full and excess input tax credit amounting to Rs.6.91 lakh was refunded to the assessee. This resulted in short levy of tax and interest of Rs.11.60 lakh.</p>	<p><u>M/s Bushra Plywoods & Wood Industries</u> <u>32120613652 (2005-06 & 2006-07)</u> <u>CTO, II Circle, Kannur</u></p> <p>M/s Bushra Plywood & Wood Industries, Keeriyad, Kannur is a registered dealer on the rolls of this office bearing TIN 32120613652 and manufactures of plywood for which amongst core and face veneer are the requisite inputs.</p> <p>The assessee also enjoyed the SSI exemption for the period from 08-01-1999 to 7-10-2006 as per order No.C2.1542/2000/DDis dtd 15-03-2001 of the General Manager, District Industries Centre, Kannur. During the year 2005-06 the dealer has availed exemption of tax payable under CST for Rs.3,34,430/- vide order No.1206C 200376/2005-06 dated 11-01-2008 and the dealer also availed refund of Rs.2,39,217/- as per order No.32120613652/05-06 dated 18-06-2011.</p> <p>Besides this during the year 2006-07, the dealer has availed exemption of tax payable under CST for Rs.1,92,975/- vide order No.32120613652(C)/06-07 dated 31-10-2008. In addition to that the dealer has also availed refund of Rs.89,389/- as per order No.32120613652/06 dated 3-3-2012 of this office.</p> <p>In the light of the Accountant General's (Kerala) objection, the assessment for the year 2005-06 and 2006-07 was completed demanding Rs.1,36,436/- and Rs.1,20,044/- respectively as per order No.32120613652/05-06 & 06-07 dated 31-03-2013. Aggrieved by the order, the assessee filed appeal before the Deputy Commissioner(Appeals), Kozhikode. The Deputy Commissioner(Appeals), Kozhikode has remanded the assessment for fresh disposal vide order No.VATA.533/13 & 535/13 dated 6-11-2013.</p> <p>According to the direction of the appellate authority in the remanded order No.VATA No.533/13 and 535/13 dtd. 06.11.2013 of the Deputy Commissioner (Appeals),</p>

		<p>Kozhikode a pre-assessment notice U/s.25(1) was issued to the assessee dated 20.05.2016 for the year 2006-07 which was stayed by the Hon'ble High Court of Kerala as per order No. WP(C) 19583/2016 (W) dated 08.06.2016. The Notice No. S1WP(C) 19583/16 dated 14.02.2020 of the Advocate General, Kerala, Ernakulam was served by hand to the assessee and duly acknowledged and returned to the Advocate General Kerala dated 20.02.2020. The Hon'ble Supreme Court has issued orders as the appeal received as special leave petition No.10203/20.</p>
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Para No.	Gist of the case	Present position
2.6.2(c)(2)	<p>M/s. Bushra Plywoods & Wood Industries and Jas Plywood, Kannur were Small Scale Industrial (SSI) units eligible for exemption from payment of CST. The assessee availed benefit of CST exemption during the years 2005-06 and 2006-07. Since their interstate sales were exempted from payment of tax, the input tax of four per cent on purchase proportionate to exempted interstate sales should have been disallowed. Audit found that the assessing authority allowed the input tax paid by the assessee in full and excess input tax credit amounting to Rs.6.91 lakh was refunded to the assessee. This resulted in short levy of tax and interest of Rs.11.60 lakh.</p>	<p><u>M/s. Jas Plywoods</u> Jas Plywood is a SSI unit enjoying tax exemption like KGST, CST, Purchase Tax, AST etc. during the period from 15.05.2000 to 14.05.2007 on the manufactured item of Block Board and Flush doors, vide Order No. C2/8262/2000 dated 26.12.2001 of the General Manager, District Industries Centre, Kannur. The dealer availed exemption of tax payable under CST for Rs.1,65,957/- for the year 2005-06 and Rs. 2,00,344/- for the year 2006-07 (Total Rs. 3,66,301/-). The dealer also availed refund of Rs. 2,51,358/- for the year 2005-06 and Rs. 1,10,095/- for the year 2006-07 without disallowing corresponding Input Tax Credit and special rebate. In the light of the Accountant General's objection, the assessments were completed vide Order No. 32120647975/2005-06 dated 30.03.2013 demanding Rs. 1,64,594/- and Rs. 2,27,708/- for the years 2005-06 and 2006-07 respectively. Since the assessee had claimed excess input tax credit and special rebate, it was disallowed vide Order No. 32120647975/05-06 & 06-07 dated 30.03.2013 by the proviso of Kerala Finance Act 2008 limiting the input tax as per Section 11(3) is applicable to limit the input tax credit. Aggrieved by the order dealer filed appeal before the Asst. Commissioner(Appeals), Kozhikode. The Asst. Commissioner(Appeals), Kozhikode vide Order No. VATA 564/2013 dated 18.02.2016 dismissed the appeal. Then the assessee filed second appeal before the Appellate Tribunal and also filed WP(C) before the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala directed the STAT, Kozhikode to consider the 2nd appeal and stay petition filed by the assessee within a period of one month of the receipt of the judgement. The Appellate Tribunal allowed the appeal vide Order No. TA(VAT) 45/2016 and 46/2016 dated 30.08.2016. The department had proposed to file TRC, but the legal opinion of the Government Pleader is that there is no scope for TRC and the decision of the Tribunal was recorded as per Order No. KDIS.J5/5661/2016/CT dated 26.10.2019 of the Joint Commissioner(Law), SGSTD, Thiruvananthapuram.</p>

Para No.	Gist of the case	Present position
2.6.2(d)	<p>M/s. Kerala State Electronic Corporation, Manvila borne on the rolls of Assistant Commissioner, Special Circle, Thiruvananthapuram was a dealer in electronic goods. During 2010-11, they had local purchase for ₹. 4.38 crore and they availed input taxes credit of ₹. 36.23 lakh. Out of the total disposal of goods for ₹. 8.91 crore , by the assessee ₹. 2.43 crore constituting 27 percent of the total goods disposed during the year was stock transferred outside the State. As such input tax credit proportionate to interstae stock transfer out had to be reversed. Failure to reverse the excess input tax claim resulted in short levy of tax, cess and interest of ₹. 5.69 lakh.</p>	<p>M/s. Kerala State Electronics Corporation 2010-11- Assistant Commissioner, Special Circle, Tvpm.</p> <p>Based on audit objection, the assessment in respect of the dealer for the year 2010-11 has been completed on 17.10.2014 by the Assistant Commissioner, Special Circle, Thiruvananthapuram creating an additional demand of ₹. 23,85,443/-. Aggrieved by this the dealer filed appeal before the Deputy Commissioner(A), Thiruvananthapuram and the Deputy Commissioner(A), Thiruvananthapuram vide order No. KVATA -402/14 dated 24-01-2015 granted conditional stay. The dealer fulfilled the conditional stay by remitting ₹. 8,06,348/- and furnished security for the balance amount. Appeal was dismissed vide order dtd 28.7.16 RRC No.146/16-17 issued.</p>

Para No.	Gist of the case	Present position
2.6.3	<p>M/s. Appollo Tyres Limited, Kochi was a dealer in tyres, tubes, flaps, tread rubber etc. Audit found that as per the annual return filed by the assessee for 2011-12, the assessee claimed credit of Rs.12 lakh as tax element of credit note. The above tax credit was not admissible as there was no corresponding sales return as per Form 13A. Incorrect claim of tax credit resulted in short remittance of tax, cess and interest of Rs.14.55 lakh</p>	<p><u>M/s Appollo Tyres Limited, Kochi</u> <u>32070332722(2011-2012)</u> <u>CTO, Special Circle II, Ernakulam</u></p> <p>The objection pointed out by the AG is relating to the irregular claim of tax credit on sales return amounting to Rs.12,00,601/- availed by the dealer. The same was not disclosed in the Form 13A filed by the dealer.</p> <p>The audit enquiry is based on the impression that the credit availed by the assessee by way of Credit Note is on sales return. The credit note mentioned in the return does not related to sales return, but some credit claimed on certain other aspects. The term 'credit note' is used for that purpose because there was no other provision to show the same in the returns. Credit availed for Rs.10,12,605/- is adjustment towards the amount identified according to the Garnishee Order of Sub Court, North Parur and Rs.1,13,646/- is credit availed for cancellation of invoices. The assessee Appollo Tyres submitted 4No. Of Garnishee orders issued by the Hon'ble Sub Court of North Paravur. As per general law relating to the production of Garnishee orders the judicial authority ordered to accept the orders and deduct the amount in that orders from the amount due towards government from the garnishee holder, the administrative authority are bound to court orders and hence the reduction in the output tax by virtue of the garnishee orders allowed to the assessee.</p> <p>Even though it is a technical error, it does not attract any adverse effect on revenue. The assessing authority verified the ledgers of the assessee and convinced that the credit availed for Rs.11,26,251/- is genuine. Hence it is allowed and the claim of tax credit amounting to the balance amount of Rs.74,350/- has been rejected and assessed in the assessment order No.320703</p>

		<p>32722/2011-12 dated 28-02-2017. The demand created vide the above assessment order has been adjusted from the excess credit available in the assessment order for the year 2008-09 vide order (Rectified) dated 09.03.2017.</p>
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Case No. 133

Para No.	Gist of the case	Present position
2.6.4(a)	<p>M/s. Bams Condiments Impex Pvt. Ltd., Kochi was a dealer in food products, edible oil, flours etc. Audit scrutiny revealed that the assessee availed input tax credit of Rs.8.07 lakh on purchases aggregating Rs.3.05 crore from a sister concern during 2011-12. Audit found that as per sale lists filed by the sister concern in KVATIS, their aggregate sales to the assessee during the year was only Rs.69.29 lakhs and output tax collected and remitted to Government was Rs.1.65 lakhs. But assessing authority did not take action under Sec.25 to disallow incorrectly availed input tax of Rs.6.42 lakhs. This resulted in short levy of tax, cess and interest of Rs.7.58 lakhs.</p>	<p>In the light of the audit objection, the assessing authority completed the assessment of M/s. Bams Condiments Impex Pvt. Ltd. for the year 2011-12 u/s.25(1) of the KVAT Act and created the following additional demand.</p> <p>Tax due – Rs.11,63,162/- Cess Due – Rs.11,632/- Interest Due – Rs.3,28,942/- Total dues – Rs.15,03,736/-</p> <p>The above demand has been recommended for revenue recovery to the Inspecting Asst. Commissioner, Ernakulam as per RRC No.64/14-15 dtd.18-09-2014 of CTO, 1st Circle, Kalamassery. In the meantime, the assessee filed appeal before the Asst. Commissioner (Appeals), Ernakulam. The AC (Appeals) has stayed the demand on a condition to remit 30% of the due. The assessee remitted Rs.4,51,121/- vide DD No.113617/27-10-2014 and furnished security for the balance amount.</p> <p>The appeal in KVATA 2739/14 was disposed by the appellate authority with direction to modify the assessment order after verification of the documents and evidences and directed the dealer to produce the evidences before the assessing authority within 20 days of the receipt of the appellate order. The dealer has filed details with evidences and assessment was modified vide Order dated 28.12.2018 creating additional demand of Rs. 10,96,008/- (tax – Rs. 5,99,534/-, cess – Rs. 5,995/-, interest – Rs. 4,90,479/-). The assessee filed application under amnesty and paid the entire amount</p>

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Para No.	Gist of the case	Present position
2.6.4(b)	<p>M/s. Lanmark Shops India Pvt. Ltd., Ernakulam was a dealer in electrical and electronic goods. During the year 2011-12, the dealer had a total turnover of Rs. 1.05 crore taxable at 12.5 per cent and 4 percent. Audit scrutiny revealed that during 2011-12, the dealer assessed tax of Rs. 7.36 lakhs only on purchase returns, when the tax actually due was Rs. 12.96 lakhs leading to short assessment of tax of Rs. 5.60 lakhs. This resulted in excess availing of ITC and consequent short levy of tax, cess and interest of Rs. 6.79 lakh.</p>	<p>In view of audit objection, the assessing authority has completed the assessment on 20.02.2014 creating additional demand of Rs. 7,55,503/- (tax – Rs. 6,14,230/- & Interest – Rs. 1,41,273/-) .</p> <p>The assessee had remitted Rs.7,55,503/- vide chalan No.12716 dated 20.03.2014.</p>

Para No.	Gist of the case	Present position																																	
2.7.1(a)	<p>The audit scrutiny at the Office of the Commercial Tax Officer (WC&LT), Palakkad revealed certain irregularities in respect of Oceanus Dwellings(P)Ltd. a works contractor, leading to a short levy of tax due to turnover escaped assessment, as shown below:</p> <p>During 2010-11 the assessee had a total contract receipts of Rs.20.73 crore. From this they availed an exemption of Rs.7.24 crore towards payment to subcontractors and Rs.5.65 crore under Rule 10. Out of the remaining turnover of Rs.7.84 crore, Rs.1.42 crore was assessed to tax at compounded rate of <i>three per cent</i> and balance turnover Rs.6.42 crore, as non-compounded turnover. Audit found that as per the annual return filed by the assessee they had purchases of Rs. 13.09 crore. The purchases had either been used in the compounded works or works which were not compounded. Under the Act, compounded rates cannot be applied on the interstate purchase turnover. Further, if the locally purchased goods are used in the compounded works, the input tax credit/special rebate availed should be reversed. In this case, since the input tax credit was not reversed on local purchase and no interstate purchase is assessed along with compounded portion, it is apparent that the purchase disclosed in the return relates to non-compounded portion. As such the non-compounded portion assessable should not be less than Rs.13.09 crore against which turnover</p>	<p>The dealer is a contractor engaged in the construction and sales of flats and villas. The dealer had reported a total turnover of Rs. 13,49,52,482/- for the year 2010-11. The dealer had claimed exemption of Rs. 5,65,08,240/- under Rule 10 and paid tax on the balance taxable turnover of Rs. 7,84,44,241/-. But on the local audit by AG it was pointed out that the dealer had effected an aggregate purchase of Rs. 13,09,24,806/- during the year 2010-11 and in the absence of details of works undertaken in Kerala assessment is to be made as per Rule 10(2)(a). As per Rule 10(2)(a), if the turnover arrived at after deducting labour and other charges falls below the cost of goods transfer together with profit if any shall be the taxable turnover in respect of such works contract. The assessment for the year 2010-11 was completed U/s.25(1) of the KVAT Act 2003 incorporating audit objection and other defects as detailed below.</p> <table border="1" data-bbox="805 1240 1497 2128"> <tbody> <tr> <td>Total contract receipt reported as per annual return</td> <td>Rs.</td> <td>13,49,52,482.75</td> </tr> <tr> <td>Exemption under Rule 10</td> <td>Rs.</td> <td>5,65,08,240.76</td> </tr> <tr> <td>Taxable turnover reported</td> <td>Rs.</td> <td>7,84,44,241.99</td> </tr> <tr> <td>Purchase value of goods as per annual return</td> <td>Rs.</td> <td>13,09,24,806.00</td> </tr> <tr> <td>Add: 25% turnover gross profit transport charge, loading and unloading charged</td> <td>Rs.</td> <td>3,27,31,201.00</td> </tr> <tr> <td>Total taxable turnover determined</td> <td>Rs.</td> <td>16,36,56,007.00</td> </tr> <tr> <td>Rounded to</td> <td>Rs.</td> <td>16,36,56,000.00</td> </tr> <tr> <td>Tax due @ 12.5%</td> <td>Rs.</td> <td>2,04,57,000.00</td> </tr> <tr> <td>Cess @ 1%</td> <td>Rs.</td> <td>2,04,570.00</td> </tr> <tr> <td>Total tax & Cess due</td> <td>Rs.</td> <td>2,06,61,570.00</td> </tr> <tr> <td>Less IPT credit eligible (7276418-1122383)</td> <td>Rs.</td> <td>61,54,035.00</td> </tr> </tbody> </table>	Total contract receipt reported as per annual return	Rs.	13,49,52,482.75	Exemption under Rule 10	Rs.	5,65,08,240.76	Taxable turnover reported	Rs.	7,84,44,241.99	Purchase value of goods as per annual return	Rs.	13,09,24,806.00	Add: 25% turnover gross profit transport charge, loading and unloading charged	Rs.	3,27,31,201.00	Total taxable turnover determined	Rs.	16,36,56,007.00	Rounded to	Rs.	16,36,56,000.00	Tax due @ 12.5%	Rs.	2,04,57,000.00	Cess @ 1%	Rs.	2,04,570.00	Total tax & Cess due	Rs.	2,06,61,570.00	Less IPT credit eligible (7276418-1122383)	Rs.	61,54,035.00
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assessed to tax was Rs.6.42 crore. Escape of turnover over Rs.6.67 crore from assessment resulted in short levy of tax, cess and interest of Rs.1.02 crore.

Balance Tax due	Rs.	1,45,07,535.00
Tax paid	Rs.	21,73,753.00
Net tax due	Rs.	1,23,33,782.00
Interest from 4/11 to 9/11 (42%)	Rs.	51,80,188.00
Total Balance due	Rs.	1,75,13,970.00

On receipt of the assessment order the dealer put in an application for rectification u/s. 66 of the KVAT Act.

The points raised in the application were discussed in details point by point in the assessment order. Moreover the points are not apparent on the face of records, the application put in by the dealer was rejected as per order dated 18.08.2015 after giving reasonable opportunity of being heard.

Against this rejection order and the assessment order for 2010-11 writ petition was filed and vide judgment vide WP(C) No. 30021/15 dated 09.08.2016, the Hon'ble High Court of Kerala had ordered to re-consider the rectification application in accordance with law within a period of two months from the date of receipt of copy of judgment. At the time hearing the authorised representative of the dealer did not produce any documents to prove their claim and hence the assessment order issued on 15.12.2016 as earlier with same demand.

Against this order the assessee filed WPC No. 5316/2017 before the Hon'ble High Court of Kerala which is still pending for disposal. Also, the Hon'ble Court stayed the collection of the balance amount.



Para No.	Gist of the case	Present position																		
2.7.1 (b)	<p>Sri. L.Satheek, Works Contractor, Kollam filed annual return for the year 2009-10, conceding total contract receipt of Rs.5.46 crore. As per the annual return the assessee availed exemption of Rs4.638 crore and self assessed tax on the balance turnover of Rs.78.26 lakh only. Audit found that the cost of goods transferred to work together with freight and profit element aggregated to Rs.5.92 crore. However, neither the assessee nor the assessing authority revised the assessment invoking provisions under Rule 10(2)(a) of KVAT Rules. The audit observation is that this resulted in short levy of tax, cess and interest of Rs.86.42 lakh.</p>	<p>In order to set right the audit objection, the assessment in respect of Sri.L. Satheek, Akkavila, Eravipuram, Kollam for the year 2009-10 was finalized on 29-08-2013 with an additional demand of Rs.78,19,878/- and interest of Rs.32,06,150/- by the CTO (WC), Kollam. Against this order, the contractor filed appeal before the DC (A), Kollam and the DC (A), Kollam disposed the appeal with direction to the assessing authority to modify the assessment after verifying the books of accounts and allowing all eligible expenses incurred for execution of the work vide order No.KVAT (A) KLM155/14 dt.06-05-2014.</p> <p>Accordingly, the case was posted for hearing and the same was heard on 01-09-2014 by the assessing authority.</p> <p>After verifying the books of accounts and allowing all eligible expenses under Rule 10(2)(a) of the KVAT Rules, 2005 and levying tax on the value of declared goods i.e., iron and steel at 4% as per 9th proviso to sub-sec.(1) of Sec.6 of the KVAT Act, 2003, the dealer is found eligible to get the benefit for the deductions allowable and completed the assessment as illustrated below.</p> <table border="0"> <tr> <td>Total contract receipt for 2009-10</td> <td>-</td> <td>Rs.5,46,25,896/-</td> </tr> <tr> <td>Add: Closing work in progress</td> <td>-</td> <td>Rs.4,00,00,000/-</td> </tr> <tr> <td>Total</td> <td>-</td> <td>Rs.9,46,25,896/-</td> </tr> <tr> <td>Less: Opening work in progress</td> <td>-</td> <td><u>Rs. 85,00,500/-</u></td> </tr> <tr> <td>Balance assessable turnover</td> <td>-</td> <td>Rs.8,61,25,396/-</td> </tr> <tr> <td>Less: Receipt under compounding works</td> <td>-</td> <td><u>Rs. 27,715/-</u></td> </tr> </table> <p>Balance assessable turnover under Non-compounding works: - Rs.8,60,97,681/-</p> <ol style="list-style-type: none"> 1. Wages - Rs.1,43,26,812/- 2. Freight - Rs.1,01,236/- 3. Transportation - Rs.10,64,715/- 4. KCWWF - Rs.6,22,054/- 5. Loading & unloading - Rs.2,83,254/- 6. Lorry rent - Rs.1,84,500/- 7. Worksite expense - Rs.28,55,707/- 8. Interest & Bank charge - Rs.36,91,857/- 9. Cost of establishment & other charges - <u>Rs.21,30,396</u> 	Total contract receipt for 2009-10	-	Rs.5,46,25,896/-	Add: Closing work in progress	-	Rs.4,00,00,000/-	Total	-	Rs.9,46,25,896/-	Less: Opening work in progress	-	<u>Rs. 85,00,500/-</u>	Balance assessable turnover	-	Rs.8,61,25,396/-	Less: Receipt under compounding works	-	<u>Rs. 27,715/-</u>
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Balance assessable turnover	-	Rs.8,61,25,396/-																		
Less: Receipt under compounding works	-	<u>Rs. 27,715/-</u>																		

Rs.2,52,60,531/-

Taxable turnover fixed – Rs.6,08,37,150/-

Tax due @ 4% on Rs.6442556/- - Rs.2,57,702/-

Tax due @ 12.5% on Rs.54394594/- - Rs.67,99,324/-

Total – Rs.70,57,026/-

Cess due @ 1% - Rs.70,570/-

Total tax due – Rs.71,27,596/-

Compounding assessment

Total contract receipt under compounded works

During 2009-10 – Rs.27,715/-

Tax due @ 3% - Rs.831/-

Cess @ 1% - Rs.8/-

Total – Rs.839/-

Total Tax Due

Compounded works – Rs.839/-

Non-compounded works – Rs.71,27,596/-

Total dues – Rs.71,28,435/-

Paid by way of e-payment – Rs.Nil

Paid by way of chalan – Rs.4,57,835/-

Set off for ITC – Rs.5,17,897/-

Total paid – Rs.9,75,732/-

Balance : Rs.61,52,703/-

Details of balance tax and interest

Payment	Balance tax as per modified order	Period of interest	Rate of interest	Interest due	Total
	61,52,703.00	5/10 to 3/14	47%	28,91,770.00	90,44,473.00
Paid on stay	9,77,336.00			4,00,918.00	13,78,254.00
Balance	51,75,367.00			2490852	76,66,219.00
		4/14	1%	51,754.00	51,754.00
Balance	51,75,367			25,42,60	77,17,97

	.00			6.00	3.00
Paid on	9,77,336.			4,00,918.	13,78,25
stay	00			00	4.00
Balance	41,98,031			21,41,68	63,39,71
due	.00			8.00	9.00
Interest		5/14 to 9/14	5%	2,09,902. 00	2,09,902 .00
					65,49,62 1.00

Total tax balance – Rs.41,98,031/-

Total interest – Rs.23,51,590/-

Total – Rs.65,49,621/-

While implementing the appellate order, by the CTO (WC), Kollam on 18-9-2014, the original demand is reduced to Rs.65,49,621/- (i.e., Rs.41,98,031/- tax and Rs.23,51,590/- interest). The dealer went in appeal against the modified order and the same was dismissed as per Order No. KVATA 972/2014 dated 23.06.2015. Aggrieved by this, the dealer went in appeal before the appellate Tribunal and stay was granted as per Order No. TA(VAT) 207/2015 dated 19.11.2015. The revision petition filed by the assessee is also dismissed by the Hon'ble HC. The dealer opted Amnesty Scheme 2020 and paid the amount as per chalan No. KL021864961202021E dated. 29.03.2021.

Para No.	Gist of the case	Present position
2.7.1(c)	<p>The audit scrutiny at the Office of the Commercial Tax Officer (WC&LT) Kozhikode revealed certain irregularities leading to a short levy due to incorrect reckoning of taxable turnover in works contract in respect of M/s.ERA INFRA Engineering Ltd, Kozhikode as shown below:</p> <p>The dealer is an assessee on the rolls of CTO (WC) Kozhikode executing civil work contract of Men's hostel of National Institute of Technology, Calicut with total contract amount of Rs.88,78,65,442.00 for the year 2009-10. The dealer opted for payment of tax under sec.6(1)(f) of KVAT Act (non compounding scheme).</p> <p>The assessee disclosed a taxable turnover of Rs.1.40 crore in their annual return for 2009-10 after availing exemption under Rule 10. Purchase value of goods transferred to the work during the year was Rs.2.81 crore. The taxable turnover which includes the gross profit as per the provisions of the KVAT Rules, 2005 would come to</p>	<p>On the basis of audit observation, the assessing authority completed the assessment vide Order No. 32111565247/09-10 dated 13.10.2011 assessing the escaped turnover as per proviso to the rule 10(2) of KVAT Rules demanding balance tax payable Rs.15,64,720.00 together with interest Rs. 2,97,297.00. This assessment order was conditionally stayed by DC (Appeals), Kkd. In satisfaction of conditions laid down in the order of the DC (A) the dealer remitted Rs. 5,00,000/- in cash as per chalan No.72 dtd:10.03.2012. Subsequently the DC (Appeals), Kkd. modified the assessment and directed the assessing authority to recompute the tax effect of declared goods (Iron & Steel) transferred in the execution of work @ 4% which was earlier taxed @ 12.5% in the audit para and in original assessment.</p> <p>The original assessment of the dealer was modified as per the direction of the Deputy Commissioner (Appeals), Kozhikode on 18.09.201 as shown below:</p> <p>ORDER No. 32111569247/2009-10 DATED: 18.09.2014.</p> <p>Total value of goods transferred in the execution of Works Contract excluding Iron & Steel: Rs.2,05,98,834/- Value of declared goods (Iron & Steel): Rs. 83,02,121/- transferred in to this works Total : Rs.2,89,00,955/-</p> <p>Tax due @ 12.5% on Rs.28900955/-: Rs.25,74,854/- Cess @ 1% : Rs.25,749/- @ 4% on Rs.8302121/- : Rs.3,32,085/- Total tax & Cess payable : Rs.29,32,688/-</p> <p>Less: Total deduction : Rs.17,92,879/- Balance : Rs.11,39,809/- Tax paid on 10-02-2012 : Rs.5,00,000/- Balance tax payable : Rs.6,39,809/- Interest upto 02/12 @ 23% on Rs.1139809/- : Rs.2,62,156</p>

<p>Rs.2.89 crore. However, the assessing authority did not take any action to assess the escaped turnover. This resulted in short levy of tax, cess and interest of Rs. 21.77 lakh.</p>	<p>Interest from 03/12 to 09/14 @ 31% on Rs.639809/- : Rs.1,98,341/- Total interest payable : Rs.4,60,497/- The balance tax payable Rs.6,39,809/- and interest payable Rs.4,60,497/- was demanded in pursuance of the assessment order, which was remitted on 06.11.2014 by the assessee vide D.D. No. 855497 dtd: 04.11.14. Since there is no short levy of tax due from the above assessee the audit objection may be dropped.</p>
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Para No.	Gist of the case	Present position								
2.7.2(1)	<p>M/s. A.B. Traders, Amaravila a dealer in cement, for the year 2010-11, purchased goods for Rs. 15.65 crore and were sold for Rs. 15.20 crore and subsequently the assessee received Rs. 1.42 crore as discount which was not assessed to tax resulting a short levy of tax, cess and interest of Rs. 21.16 lakh.</p>	<p>On the basis of the Audit Enquiry, notice u/s.25 of the KVAT Act 2003 was issued to the dealer. Subsequently, the assessing authority completed the assessment vide order dated 28.05.2013, creating additional demand of Rs. 22,41,400/- (tax – Rs. 17,93,143/- + interest – Rs. 4,48,256/-). Aggrieved by the order, the dealer filed appeal before the Deputy Commissioner (Appeals), Thiruvananthapuram. As per Order No. KVATA 120/2013 dated 06.09.2013, the Appellate authority granted stay in this case on condition that the appellant should remit 1/3rd of the disputed amount. On the basis of the appellate order the dealer remitted Rs. 7,47,133/- vide challan No. 784 dated 22.10.2013. Subsequently, the Deputy Commissioner(Appeals) dismissed the appeal vide order No. KVATA 120/2013 dated 21.12.2014. Aggrieved by the said order, the dealer filed second appeal before the Hon'ble KVAT Appellate Tribunal, Ernakulam. The dealer also requested to stay the balance disputed demand amounting to Rs. 14,94,267/-. The Hon'ble Tribunal granted stay vide order No. TA(VAT) 136/2014 dated 18.03.2014 till the disposal of the appeal on condition that the appellant furnish security for the stayed amount. In obedience to the said order, the dealer furnished security bond.</p> <p>Subsequently, the dealer opted amnesty scheme 2017 for payment of arrears in this case. The dealer also filed application before the Hon'ble Tribunal for withdrawing the appeal filed. The dealer paid the entire amount under amnesty scheme 2017 as detailed below.</p> <table border="1" data-bbox="759 1742 1455 2002"> <thead> <tr> <th data-bbox="759 1742 1102 1787">Amount(in Rs.)</th> <th data-bbox="1102 1742 1455 1787">Challan No.</th> </tr> </thead> <tbody> <tr> <td data-bbox="759 1787 1102 1839">7,47,133/-</td> <td data-bbox="1102 1787 1455 1839">784/22.10.2013</td> </tr> <tr> <td data-bbox="759 1839 1102 1921">3,78,556/-</td> <td data-bbox="1102 1839 1455 1921">KL006801205201718M dtd. 12.10.2017</td> </tr> <tr> <td data-bbox="759 1921 1102 2002">7,57,112/-</td> <td data-bbox="1102 1921 1455 2002">KL009566537201718M dtd. 06.01.2018</td> </tr> </tbody> </table>	Amount(in Rs.)	Challan No.	7,47,133/-	784/22.10.2013	3,78,556/-	KL006801205201718M dtd. 12.10.2017	7,57,112/-	KL009566537201718M dtd. 06.01.2018
Amount(in Rs.)	Challan No.									
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3,78,556/-	KL006801205201718M dtd. 12.10.2017									
7,57,112/-	KL009566537201718M dtd. 06.01.2018									

Para No.	Gist of the case	Present position															
2.7.2(2)	<p>The audit objection is that Shri.M.Abubaker, Amaravila, a dealer in cement had during the year 2010-11 self assessed to tax a turnover of Rs. 8.15 crore whereas the cost of goods sold was Rs. 8.50 crore. Though the goods were sold at a price lower than the purchase price, discount of Rs. 83.33 lakh received subsequently was not assessed to tax either by the assessee or by the assessing authority. This resulted in short levy of tax, cess and interest of Rs. 12.49 lakh.</p>	<p>Self assessment in respect of Sri.M.Abubaker, Amaravila was revised vide order dated 25.04.2013 of the Assistant Commissioner (Assmt.), Special Circle, Thiruvananthapuram creating a demand of Rs. 13,99,827/- (Tax Rs. 11,28,893/- and interest Rs. 2,70,934/-). Aggrieved by this, the dealer preferred appeal before the Deputy Commissioner(Appeals), Thiruvananthapuram. As per order dated 06-09.2013, the Appellate Authority directed the dealer to remit 1/3rd of the disputed amount. Accordingly the dealer remitted Rs. 4,66,609/- vide challan No. 781 dated 22.10.2013. Subsequently, the Deputy Commissioner(Appeals) dismissed the appeal vide order No. KVATA 78/13 dated 21.02.2014. Aggrieved by the said order the dealer filed second appeal before the Hon'ble KVAT Appellate Tribunal, Ernakulam. The dealer also requested to stay the balance disputed demand amounting to Rs. 9,33,218/-. The Hon'ble Tribunal granted stay vide order No. TA(VAT) 135/2014 dated 18.03.2014 till the disposal of the appeal on condition that the appellant furnish security for the stayed amount. In obedience to the said order, the dealer furnished security bond.</p> <p>Subsequently, the dealer opted amnesty scheme 2017 for payment of arrears in this case. The dealer also filed application before the Hon'ble Tribunal for withdrawing the appeal filed. The dealer paid the entire amount under amnesty scheme 2017 as detailed below.</p> <table border="1" data-bbox="790 1736 1436 2105"> <thead> <tr> <th data-bbox="790 1736 957 1814">Cheque No.</th> <th data-bbox="957 1736 1157 1814">Amount(in Rs.)</th> <th data-bbox="1157 1736 1436 1814">Challan No.</th> </tr> </thead> <tbody> <tr> <td data-bbox="790 1814 957 1870"></td> <td data-bbox="957 1814 1157 1870">4,66,609/-</td> <td data-bbox="1157 1814 1436 1870">781/22.10.2013</td> </tr> <tr> <td data-bbox="790 1870 957 1948">089806</td> <td data-bbox="957 1870 1157 1948">2,39,576/-</td> <td data-bbox="1157 1870 1436 1948">KL006801373201718 M dtd. 12.10.2017</td> </tr> <tr> <td data-bbox="790 1948 957 2027">095788</td> <td data-bbox="957 1948 1157 2027">2,39,576/-</td> <td data-bbox="1157 1948 1436 2027">KL009956674201718 M dtd. 06.01.2018</td> </tr> <tr> <td data-bbox="790 2027 957 2105">095789</td> <td data-bbox="957 2027 1157 2105">2,39,576/-</td> <td data-bbox="1157 2027 1436 2105">KL009956674201718 M dtd. 06.01.2018</td> </tr> </tbody> </table>	Cheque No.	Amount(in Rs.)	Challan No.		4,66,609/-	781/22.10.2013	089806	2,39,576/-	KL006801373201718 M dtd. 12.10.2017	095788	2,39,576/-	KL009956674201718 M dtd. 06.01.2018	095789	2,39,576/-	KL009956674201718 M dtd. 06.01.2018
Cheque No.	Amount(in Rs.)	Challan No.															
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Para No.	Gist of the case	Present position																								
2.7.2(3)	<p>M/s Lakshmi Digital Plaza, Thrissur, purchased goods for Rs.1.03 crore and Rs.5.91 crore during 2010-11 and 2011-12 were sold for Rs.1.01 crore and Rs.5.90 crore. The assessee subsequently received discount of Rs.18.79 lakh and Rs.48.01 lakh which were not assessed to tax. This resulted in a short levy of tax, cess and interest of Rs.9.82 lakhs</p>	<p>M/s Lakshmi Digital Plaza, Thrissur 32080740603(2010-11 & 2011-12) CTO, III Circle, Thrissur.</p> <p>Based on the audit objection the assessment was completed for the years 2010-11 and 2011-12. The details are as shown below:-</p> <p><u>2010-2011</u></p> <table data-bbox="766 638 1244 784"> <tr> <td>Tax due</td> <td>Rs.5,74,876.00</td> </tr> <tr> <td>Interest due</td> <td>Rs.2,35,699.00</td> </tr> <tr> <td>Total</td> <td>Rs.8,10,575.00</td> </tr> </table> <p>Assessee paid Rs.2,43,175/- (Rs.1,72,463/- towards tax and Rs.70,712 towards interest as per chalan No.353 dated 24-11-2014.</p> <p><u>2011-2012</u></p> <table data-bbox="766 996 1244 1142"> <tr> <td>Tax due</td> <td>Rs.21,41,433.00</td> </tr> <tr> <td>Interest due</td> <td>Rs.6,21,016.00</td> </tr> <tr> <td>Total</td> <td>Rs.27,62,449.00</td> </tr> </table> <p>Assessee paid Rs.8,28,735/-(Rs.6,42,430/- towards tax and Rs.1,86,305/- towards interest as per chalan No.349 dated 24-11-2014.</p> <p>Aggrieved by the above orders, the assessee filed appeal before the AC(Appeal), Thrissur. As per the directions of the appellate authority in KVATA 536/14 for 2010-11 and KVATA 537/14 for 2011-12 dated 29.12.2014, the original assessment was revised as per order dated 25-02-2017 for the years 2010-11 & 2011-12. Revised demand is as follows:-</p> <p><u>2010-2011</u></p> <table data-bbox="766 1646 1069 1792"> <tr> <td>Tax due</td> <td>:Rs.4,02,412.00</td> </tr> <tr> <td>Interest</td> <td>:Rs.2,86,863.00</td> </tr> <tr> <td>Total</td> <td>:Rs.6,89,275.00</td> </tr> </table> <p><u>2011-2012</u></p> <table data-bbox="766 1848 1069 1993"> <tr> <td>Tax due</td> <td>:Rs.12,09,403.00</td> </tr> <tr> <td>Interest</td> <td>:Rs. 7,20,727.00</td> </tr> <tr> <td>Total</td> <td>:Rs.19,30,130.00</td> </tr> </table> <p>The demand as per the revised orders are intimated to RR authority. Aggrieved by the revised orders, the assessee filed</p>	Tax due	Rs.5,74,876.00	Interest due	Rs.2,35,699.00	Total	Rs.8,10,575.00	Tax due	Rs.21,41,433.00	Interest due	Rs.6,21,016.00	Total	Rs.27,62,449.00	Tax due	:Rs.4,02,412.00	Interest	:Rs.2,86,863.00	Total	:Rs.6,89,275.00	Tax due	:Rs.12,09,403.00	Interest	:Rs. 7,20,727.00	Total	:Rs.19,30,130.00
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Total	:Rs.19,30,130.00																									

writ petition before the High Court as per WPC 11606/2017. The Hon'ble Court had directed to pass order on rectification application filed by the dealer. After verification, application to rectify the assessment order was rejected vide order dated 27.06.2017 by giving all opportunities.

The assessee opted amnesty scheme 2020 and tax amount determined under Amnesty Scheme is Rs. 6,77,400/-. The dealer has paid whole amount in four instalment as follows:-

- (1) Rs.1,69,350/- vide Chalan No. KL015190300202021E dtd, 29.12.2020.
- (2) Rs.1,69,500/- vide Chalan No. KL017852980202021E dtd 30/01/2021
- (3) Rs.1,69,500/- vide Chalan No. KL020305393202021E dtd 06/03/2021
- (4) Rs.1,69,050/- vide Chalan No.KL022092981202021E dtd 31/03/2021.

Para No.	Gist of the case	Present position
2.7.2(4)	<p>The audit scrutiny at the office of the Commercial Tax Officer, 2nd Circle, Palakkad revealed certain irregularities in respect of M/s. Alpha Agencies Palakkad, a dealer in Electronic Goods leading to a short levy of tax due to escape of turnover from assessment .</p> <p>The dealer had conceded a sales turnover of ₹. 1.97 crore, the purchase price of which was ₹. 2.26 crore including direct expenses. Audit found that the assessee received subsequently a discount of ₹. 44.21 lakh which was not assessed to tax. This resulted in short levy of tax, cess and interest of ₹. 6.75 lakh.</p>	<p>In pursuance to the audit objection raised the assessment of M/s. Alpha Agencies, Palakkad for the year 2010-11 was completed on 19-12-2014 incorporating other defects also, by creating an additional demand of ₹. 12,91,108/- and interest of ₹. 5,77,945/- as per Order No. 32090630152/10-11 dated 19-12-2014. The dealer paid Rs. 2,00,000/- as per challan No. 1324 dated 02.02.2015. The balance demand of Rs. 16,94,876/- has been advised for RR.</p> <p>The dealer remitted Rs. 3,60,720/- being 30% of the disputed tax vide challan No. 440 dated 30.03.2015 and filed appeal before AC(Appeals), Palakkad. The appellate authority directed the assessing authority vide order no. KVATA No. 43/2015 dated 15.03.2016 to modify the impugned assessment order by deleting the assessment on the difference noted in the annual return and audited 13, 13A statement and also on the discount receipt of Rs.44,21,305/-. Against this appellate order, the State filed second appeal before the KVAT Additional Appellate Tribunal, Palakkad. The Tribunal dismissed the second appeal vide Order No.TA(VAT)No.66 & 67/16 dated 22.08.2016. As per the directions of the appellate authority, the assessment was modified vide order dated 20.06.2017 reducing the demand to Rs.24,022/- which was already paid. The excess amount is adjusted to the dues for the period of 2011-12. Hence the audit objection is not sustainable.</p>

Para No.	Gist of the case	Present position
2.7.2(5)	<p>M/s. Three Star Traders, Tanur purchased goods for Rs. 6.53 crore was sold for Rs. 6.32 crore. Subsequently the assessee received Rs. 39.16 lakhs as discount which was not assessed to tax. This resulted in short levy of Tax, cess and interest of Rs. 5.64 lakhs.</p>	<p><u>M/s Three Star Traders, Tanur, 32100543044 (2010-11)CTO, Tirur</u></p> <p>In pursuance of the audit objection, the assessment of Sri.P. Suresh, Three Star Traders was completed on 29.01.2016. Aggrieved by this order, the assessee approached the High Court of Kerala. The Hon'ble High Court of Kerala quashed the original order and disposed with direction to complete assessment afresh on or before 31.03.2016. The dealer was directed to produce relevant materials on 03.03.2016 before the assessing authority to comply the observations of the High Court of Kerala in WP(C) 23566/2012 dated 02.12.2015. Accordingly the dealer appeared on 03.03.2016 and filed statements. He produced copy of the WP(C) 6388/2016 dated 24.02.2016, certificate from M/s. Chettinad Cement, supplier of cement showing no refund claim of IPT towards discount allowed, monthly purchase / sale value statement, copies of purchase / sale bill etc. to substantiate this case that discount received does not come under explanation VII to 52 (lii) of KVAT Act 2003.</p> <p>The assessing authority verified the books of accounts on three parameters directed by the Hon'ble High Court of Kerala in WP(C) 23566/2012 dated 02.12.2015. It is found that the sales value of cement is higher than purchase value, the supplier has proved by document that refund of IPT not claimed by them on the original sales price, discount received was not towards balance sales consideration to compensate the value from the customers and hence the assessment is completed and recorded.</p>

Para No.	Gist of the case	Present position
2.7.2(6)	<p>The audit scrutiny of the O/o the Assistant Commissioner, Special Circle, Palakkad revealed certain irregularities in respect of M/s. Alpha International Traders, Mannarkkad extending to a short levy of tax due to escape of turnover from assessment .</p> <p>The assessee is a dealer in cement /white cement who conceded a sales turnover of Rs. 12.77 crore, but the purchase price of which was Rs. 12.87 crore including expenses directly connected with the purchase. Audit found that the assessee received subsequently a discount of Rs. 35.56 lakh which was not assessed to tax either self assessed by the assessee or by the assessing authority. This resulted in short levy of tax, cess and interest of Rs. 5.30 lakh.</p>	<p>On the basis of the audit objection the assessment of the dealer for the year 2010 – 2011 was completed by the Assistant Commissioner (Assessment), Special Circle, Palakkad on 15/11/2013 creating an additional demand of Rs. 5,88,151/-. Against this order, the assessee filed appeal before the Deputy Commissioner(Appeals), Commercial Taxes , Kottayam.</p> <p>The Deputy Commissioner (Appeals), Kottayam has directed to delete the transporting charges and coolie charges from the purchase value as the assessee has not incurred carriage inward expenses as pointed out by the Accountant General.</p> <p>The State preferred second appeal against the order of the Deputy Commissioner(Appeals), the Hon'ble Tribunal in TA(VAT) No. 3/15 dated 31.03.2015 upheld the order of first appellate authority. As such the assessment order was modified and demand is recorded as 'Nil' vide Order dated 22.02.2017. Based on the findings of the Hon'ble Appellate Tribunal it is reported that there is no scope for filing TRC in this case.</p>

Para No.	Gist of the case	Present position
2.7.3	<p>M/s. SEPR Refractories India ltd. filed Annual Return for 2010-11 conceding total sales turnover of Rs. 153.15 crore. Audit found that as per P&L Account of the assessee they had a total sales turnover of Rs. 159.95 crore including excise duty. The assessing authority did not re-assess the case to tax the escaped turnover of Rs. 6.81 crore. This resulted in short payment of tax, cess and interest of Rs. 37.92 lakh.</p>	<p>The escapement of turnover for an amount of Rs. 6,80,52,500/- has been taken into account and assessed against tax vide rectified order no. 32090256454/2010-11 dated 29.01.2019 creating a demand of Rs. 9,88,710/- towards tax and Rs. 9,19,500/- towards interest. The amount was advised for revenue recovery. The dealer paid 20% of the demand of Rs.1,98,000/- vide chalan no KL005037155201920M dated 20/07/2019 and filed appeal. The Joint Commissioner(Appeals) Kozhikode vide order No: KVAT 8/2020 dated 24.03.2021 dismissed the case.</p>

Para No.	Gist of the case	Present position								
2.7.4	<p>M/s. State Institute of Educational Technology, Thycaud, Thiruvananthapuram filed annual return for 2010-11, conceding a taxable turnover of Rs.1.30 crores. Audit found that as per the Income and Expenditure Statement forming part of the Audited Accounts of the assessee, they had an additional income of Rs.1.06 crores from sale of educational video programmes during the year, which was not included in the annual return and assessed to tax. The assessing authority also did not assess the escaped turnover. This resulted in short levy of tax, cess and interest of Rs.5.23 lakhs.</p>	<p>The escaped turnover has been assessed to tax vide order No. 32010619645/10-11 dated 15/5/13 by creating an additional demand of Rs. 5,38,330/-. The assessee had filed an application under Amnesty Scheme on 20-6-19 and entire arrears of Rs. 4,30,664/- remitted as detailed below leaving Nil Balance.</p> <table data-bbox="790 582 1340 716"> <thead> <tr> <th><u>Amount</u></th> <th><u>Chalan No. & dated</u></th> </tr> </thead> <tbody> <tr> <td>1,00,000</td> <td>KL00392059020192M / 20-6-19</td> </tr> <tr> <td>1,00,000</td> <td>KL005448464201920M / 30-7-19</td> </tr> <tr> <td><u>2,30,664</u></td> <td>KL010172167201920M / 14-11-19</td> </tr> </tbody> </table> <p>Total <u>4,30,664</u></p>	<u>Amount</u>	<u>Chalan No. & dated</u>	1,00,000	KL00392059020192M / 20-6-19	1,00,000	KL005448464201920M / 30-7-19	<u>2,30,664</u>	KL010172167201920M / 14-11-19
<u>Amount</u>	<u>Chalan No. & dated</u>									
1,00,000	KL00392059020192M / 20-6-19									
1,00,000	KL005448464201920M / 30-7-19									
<u>2,30,664</u>	KL010172167201920M / 14-11-19									

Para No.	Gist of the case	Present position										
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assessee and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1" data-bbox="288 1003 849 1352"> <tr> <td data-bbox="288 1003 571 1093">Dealer Name / TIN</td> <td data-bbox="571 1003 849 1093">Priya Associates 32121020204</td> </tr> <tr> <td data-bbox="288 1093 571 1137">Year</td> <td data-bbox="571 1093 849 1137">2011-12</td> </tr> <tr> <td data-bbox="288 1137 571 1227">Turnover Short Reported (Rs.)</td> <td data-bbox="571 1137 849 1227">6915002</td> </tr> <tr> <td data-bbox="288 1227 571 1317">Total tax cess and interest</td> <td data-bbox="571 1227 849 1317">357589</td> </tr> <tr> <td data-bbox="288 1317 571 1352">Penalty (Rs.)</td> <td data-bbox="571 1317 849 1352">558732</td> </tr> </table>	Dealer Name / TIN	Priya Associates 32121020204	Year	2011-12	Turnover Short Reported (Rs.)	6915002	Total tax cess and interest	357589	Penalty (Rs.)	558732	<p>Sl.No.1 <u>Priya Associates</u> <u>32121020204(2011-12)</u> <u>CTO, Special Circle, Kannur</u></p> <p>The audit objection is that the assessee has transported out goods for Rs.69,15,002/- through check posts but the above turnover was not conceded in the return. The assessing authority verified this objection and found that the value of goods mentioned are the total sales value as per Invoice No.320 (Rs.12,80,176.80), 321 (Rs.21,54,436) and 353 (Rs.34,80,390.40) issued to M/s Appollo Tyres Ltd, Cochin (TIN 32070332722) total Rs.69,15,002). All these sales are shown as local sales and tax paid. The recipient of the assessee i.e. Appollo Tyres, Cochin transported the Rubber Sheets covered under the impugned invoices to their Factory at Chennai through the Walayar Check Post. Transported under the cover of Delivery notes of the Appollo Tyres and invoices of the assessee. That is the circumstances which caused disclosing the impugned turnover in interstate CTCP transaction. It is a case like billed to Appolo Tyres, Cochin – despatched to Appolo Tyres, Chennai.</p> <p>Hence there is no short levy in this case.</p>
Dealer Name / TIN	Priya Associates 32121020204											
Year	2011-12											
Turnover Short Reported (Rs.)	6915002											
Total tax cess and interest	357589											
Penalty (Rs.)	558732											

Para No.	Gist of the case	Present position										
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assessee and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>General Commodities Ltd. 32150359506</td> </tr> <tr> <td>Year</td> <td>2010-11</td> </tr> <tr> <td>Turnover Short Reported (Rs.)</td> <td>117891550</td> </tr> <tr> <td>Total tax cess and interest</td> <td>6667947</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>9525638</td> </tr> </table>	Dealer Name / TIN	General Commodities Ltd. 32150359506	Year	2010-11	Turnover Short Reported (Rs.)	117891550	Total tax cess and interest	6667947	Penalty (Rs.)	9525638	<p><u>Sl.No.2 General Commodities Ltd</u> <u>32150359506 (2010-11)</u> <u>CTO, Special Circle, (Produce) Mattancherry</u></p> <p>The assessing authority verified the objection and found that the entire figure of the 'Value of Goods transported out through checkpost' Rs.11,95,95,550/- is transported by them through Walayar CT Check Post is send to their Coimbatore branch M/s Indian Products Limited, Coimbatore-30 at their processing unit/branch: Elore Road Knathukadavu, Coimbatore-32 for Job work only. This does not involve any sales transactions. After processing entire goods came back from Coimbatore to Kerala with Valid documents and Export quality goods exported through Kochi Port. They have clearly mentioned in Delivery Notes that the transaction is only for processing and will return back to Kerala after processing and packing. They have also taken a clarification from ITML, Thiruvananthapuram stating that there is no tax liable for goods sending for Job work.</p>
Dealer Name / TIN	General Commodities Ltd. 32150359506											
Year	2010-11											
Turnover Short Reported (Rs.)	117891550											
Total tax cess and interest	6667947											
Penalty (Rs.)	9525638											

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Para No.	Gist of the case	Present position										
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assessee and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Faras Info-techs Pvt. Ltd (Owners of V.G. Saraf & Sons) 32070398894</td> </tr> <tr> <td>Year</td> <td>2010-11</td> </tr> <tr> <td>Turnover Short Reported (Rs.)</td> <td>11,84,368/-</td> </tr> <tr> <td>Total tax cess and interest</td> <td>2,09,336/-</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>2,99,052/-</td> </tr> </table>	Dealer Name / TIN	Faras Info-techs Pvt. Ltd (Owners of V.G. Saraf & Sons) 32070398894	Year	2010-11	Turnover Short Reported (Rs.)	11,84,368/-	Total tax cess and interest	2,09,336/-	Penalty (Rs.)	2,99,052/-	<p>No.3 Faras Info-techs Pvt Ltd. (Owners of V.G. Saraf & sons) 32070398894 (2010-11) CTO, Special Circle II, Ernakulam</p> <p>The audit objection raised is that the dealer made short reporting of inter-state sale to the tune of Rs.11,84,368/- with tax effect of Rs.1,49,526/- including interest and cess.</p> <p>Based on the data available from KVATIS checkpost transaction module, the original VAT assessment was completed as per order dated 04.01.2016 and created an additional demand of VAT Rs. 22,72,279/- and interest Rs. 13,17,921/-.</p> <p>The VAT assessment was subsequently rectified as per order dated 28.01.2016 with a new demand of Rs. 19,84,726/- and interest of Rs. 11,51,141/-.</p> <p>The CST assessment was also completed as per order dated 24.05.2016 and created additional demand of Rs. 3,76,685/- (interest Rs. 89,139/- included). The assessee has filed WP(C) No. 4020/2016 against the assessment order and the Hon'ble HC of Kerala granted stay as per Order No. WP(C) NO. 4020/2016 dated 31.05.2016. The case is still pending before the Hon'ble HC of Kerala.</p>
Dealer Name / TIN	Faras Info-techs Pvt. Ltd (Owners of V.G. Saraf & Sons) 32070398894											
Year	2010-11											
Turnover Short Reported (Rs.)	11,84,368/-											
Total tax cess and interest	2,09,336/-											
Penalty (Rs.)	2,99,052/-											

Para No.	Gist of the case	Present position										
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Dealer Name / TIN	H.T. Foods Pvt. Ltd. 32070407275											
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Dealer Name / TIN	Kerala Electrical and Allied Engineering Co. Ltd. KEL 32070477925											
Year	2011-12											
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	21	448	2.263
	22	358	1.05
	23	453	1.317
	24	452	1.521
	25	454	2.249
	26	457	1.448
	Total		40.989
	<p>In the above circumstances, no tax evasion is involved in this case and hence the para may be dropped.</p>		

Para No.	Gist of the case	Present position										
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Dealer Name / TIN	Zahi Rubbers India Ltd. 32150730622											
Year	2010-11											
Turnover Short Reported (Rs.)	23411382											
Total tax cess and interest	1324148											
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Dealer Name / TIN	Modern Sanitary 32080710565											
Year	2010-11											
Turnover Short Reported (Rs.)	61,76,479/-											
Total tax cess and interest	10,67,343/-											
Penalty (Rs.)	15,24,777/-											

Para No.	Gist of the case	Present position										
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Dealer Name / TIN	Best Ready Mix Concrete 32080756904											
Year	2010-11											
Turnover Short Reported (Rs.)	1966316											
Total tax cess and interest	347547											
Penalty (Rs.)	496496											

		<p>only in the assessee's vehicle and not in a vehicle comprising of several other articles. Hence this transaction is treated the sale as an intra State Sale. So the original assessment modified as per Order No. 32080756904/2010-11 dated 11.06.2020 by deleting the addition of Rs. 17,99,300/-. In the circumstances, at present there is no arrear related to this audit objection.</p>
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Para No.	Gist of the case	Present position																										
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Dealer Name / TIN	Parthas 32010128864											
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Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	31/0 5/20 11	Mar ikar Eng inee rs Priv ate Ltd	Sko da Aut o Indi a Pvt. Ltd	0	05/0 5/20 11	Aut omo bile Spar e Part s/ Acc esso ries	0	0	0.56
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	17/0 8/20 11	Mar ikar Eng inee rs Priv ate Ltd	Mar ikar Eng inee rs Priv ate Ltd	363 378 6	04/0 8/20 11	Elec trica l goo ds/ Part s and acce ssor ies	10 Box es	0	0.85
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	20/0 8/20 11	Mar ikar Eng inee rs Priv ate Ltd	Sko da Aut o Indi a Pvt. Ltd	363 378 4	20/0 7/20 11	Aut omo bile Spar e Part s/ Acc esso ries	30 Nos	0	3.90 3
Wal ayar	Inte r -	20/0 8/20	Mar ikar	Sko da	363 378	12/0 8/20	Aut omo	9 Nos	0	0.95 5

-CT Che ck Post	Stat e Sale s	11	Eng inee rs Priv ate Ltd	Aut o Indi a Pvt. Ltd	7	11A uto mob ile Spar e Part s/ Acc esso ries	bile Spar e Part s/ Acc esso ries			
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	16/0 9/20 11	Mar ikar Eng inee rs Priv ate Ltd	Sko da Aut o Indi a Pvt. Ltd	Ctv aa 363 378 9	03/0 9/20 11	Aut omo bile Spar e Part s/ Acc esso ries	0	0	4.23 6
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	16/0 9/20 11	Mar ikar Eng inee rs Priv ate Ltd	Sko da Aut o Indi a Pvt. Ltd	Ctv aa 363 379 0	05/0 9/20 11	Aut omo bile Spar e Part s/ Acc esso ries	0	0	0.07 5
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	27/0 9/20 11	Mar ikar Eng inee rs Priv ate Ltd	Sko da Aut o Indi a Pvt. Ltd	For mno 15n o 363 379 3	24/0 9/20 11	Aut omo bile Spar e Part s/ Acc	0	0	0.09 2

							esso ries			
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	28/0 9/20 11	Mar ikar Eng inee rs Priv ate Ltd	Sko da Aut o Indi a Pvt. Ltd	For mno 15n o 363 379 2	24/0 9/20 11	Aut omo bile Spar e Part s/ Acc esso ries	0 0	0 0	0.39 5
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	28/0 9/20 11	Mar ikar Eng inee rs Priv ate Ltd	Sko da Aut o Indi a Pvt. Ltd	For mno 15n o 363 379 1	21/0 9/20 11	Aut omo bile Spar e Part s/ Acc esso ries	3 Nos	0	0.08 8
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	29/1 0/20 11	Mar ikar Eng inee rs Priv ate Ltd	Sko da Aut o Indi a Pvt. Ltd	Ctv aa 363 379 8	19/1 0/20 11	Aut omo bile Spar e Part s/ Acc esso ries	1 Nos	0	3.63 6
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	29/1 0/20 11	Mar ikar Eng inee rs Priv ate Ltd	Sko da Aut o Indi a Pvt. Ltd	Ctv aa 863 379 7	19/1 0/20 11	Aut omo bile Spar e Part s/ Acc esso ries	3 Nos	0	0.16 5

			Ltd	Ltd			Acc esso ries			
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	08/1 2/20 11	Mar ikar Eng inee rs Priv ate Ltd	War rant y Part s retu rn cent re	255	02/1 1/20 11	Aut omo bile Spar e Part s/ Acc esso ries	1 Pac ket	250 Kgs	4.18 2
Wal ayar -CT Che ck Post	Inte r - Stat e Sale s	29/1 2/20 11	Mar ikar Eng inee rs Priv ate Ltd	Sko da Aut o Indi a Pvt. Ltd	225	02/1 1/20 10	Aut omo bile Spar e Part s/ Acc esso ries	2 Box es	672 Kgs	74.6 52
										207. 831

The first two transactions to Shri. Ramaswaroop Memorial Charitable Trust & IEC Education Ltd. was actual interstate sales but which they filed in KVAT return as local sales for the month of April 2011 and the above sales had been considered in the assessment order dated 04.02.2017.

The third item shown in the Check post data as interstate sales vide invoice No. 91204889 for Rs. 4.542 lakhs is the transaction in which the consigner is Skoda and the assessee is the consignee. Hence it is evident that this is an interstate purchase effected by the assessee.

The last two transactions are transportation of warranty goods, that are also considered and discussed in the assessment order dated 04.02.2017.

		<p>Rest of the transaction are interstate purchase returns under the strength of Delivery Notes. M/s. Skoda Auto India Pvt. Ltd. is the manufacture of Skoda vehicles and the principal supplier of the assessee.</p> <p>The assessee filed KVATA 310/17 against the Assessment order dt.4.2.2017. Subsequently, assessment modified vide order no.32010131755/2011-12 dtd.2.11.2022 creating additional demand of Rs.7,45,131/- as tax plus interest of Rs.9,61,175/-. Demand notice issued.</p>
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Total	413.06	9.83	921.25	2654.24	3998.38																																																																																																	

account in the absence of supporting documents such as 'F' Forms for stock transfer out and bill of ladden and other related documents to substantiate the export sales.

On receipt of the notice the dealer filed a reply along with 'F' Forms and documents relating to export, but failed to prove stock transfer to the tune of Rs.24,53,136/- which was assessed to tax demanding a tax liability of Rs.1,42,947/- along with cess of Rs.1,429.47 consolidating to a total tax due of Rs.1,45,806.34. On issuing Input Tax Credit the balance tax was fixed on Rs.79,161.34 along with interest of Rs.21,373.56 consolidating to a total due of Rs.1,00,534/- which was paid by the dealer vide challan Nos.192/dtd 30.08.2013, 458/04.10.2013 & 172/31.10.2013.

As the interstate turnover conceded by the dealer is very much on the higher side than that in the data available in checkpost transport transaction module and the assessment pertaining to the year 2010-11 in the subject matter was completed the C &AG objection is not sustainable and may be dropped.

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Case No. 161

Para No.	Gist of the case	Present position																										
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assessee and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Nirmala Automobiles (P) Ltd. 32010194902</td> </tr> <tr> <td>Year</td> <td>2010-11</td> </tr> <tr> <td>Turnover Short Reported (Rs.)</td> <td>884064</td> </tr> <tr> <td>Total tax cess and interest</td> <td>156258</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>223226</td> </tr> </table>	Dealer Name / TIN	Nirmala Automobiles (P) Ltd. 32010194902	Year	2010-11	Turnover Short Reported (Rs.)	884064	Total tax cess and interest	156258	Penalty (Rs.)	223226	<p>Sl.No.16 <u>Nirmala Automobiles (P) Ltd</u> <u>32010194902/2010-11</u> <u>CTO, Special Circle, Thiruvananthapuram</u></p> <p>The audit objection is as follows:- The assessee have effected the following inter-state sales for the year 2010-11.</p> <table border="1"> <thead> <tr> <th>Invoice No & Date</th> <th>Name of the Dealer</th> <th>Commodity</th> <th>Value (Rs. In Lakhs)</th> </tr> </thead> <tbody> <tr> <td>559/ 03.04.10</td> <td>International</td> <td>Motor Cycle Parts</td> <td>1.614</td> </tr> <tr> <td>2012659/ 03.08.10</td> <td>M.G. Automobiles</td> <td>Automobile Spare parts</td> <td>7.227</td> </tr> <tr> <td></td> <td></td> <td></td> <td>8.841</td> </tr> </tbody> </table> <p>Considering the audit objection a notice under Rule 6(5) of the CST (Kerala) Rules 1957 has been issued to the dealer. The assessee stated that the invoice No and date issued to M/s International Cars & Motors Pvt Ltd is 558 dated 18-03-2010 and No.559 dated 03-04-2010. This is verified with the system and found that the date of invoice No.559 is 18-03-2010 as stated by the assessee. Regarding invoice No.558 dated 18-03-2010, they have sent non moving spare parts to the concerned manufacturers and sale bill No.558 dated 18-03-2010 for Rs.1,61,390 is an 8B Bill and the dealer included the same invoice in their March 2010 return. This is verified and found that though it is an inter-state sale, the dealer had included the sale along with other local sales and included in their monthly return for the month of March 2010. Hence during the year there is no scope for assessing the same towards inter-state sales.</p> <p>Regarding Invoice No.2012659 dated 03.08.10, the dealer stated that the invoice no. Stated in the notice is actually the Delivery Note No. Issued to M.G.Automobiles Pvt Ltd, Zaheerabad towards the body building in their chases supplied as per the purchase invoice No.107/EMP/2010-11 dated 3-07-2010 for Rs.7,22,674/- . The dealer also produces the copy of the delivery</p>	Invoice No & Date	Name of the Dealer	Commodity	Value (Rs. In Lakhs)	559/ 03.04.10	International	Motor Cycle Parts	1.614	2012659/ 03.08.10	M.G. Automobiles	Automobile Spare parts	7.227				8.841
Dealer Name / TIN	Nirmala Automobiles (P) Ltd. 32010194902																											
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		<p>note for verification . The assessing authority verified the same and found that the number noted against invoice No is delievery note No. Of the dealer and the dealer using the above delivery note chases purchased vide invoice NO.107/EMPL/2010-11 dated 3-7-2010 from Eric Motors Pvt. Ltd. were sent for body building and after body building the vehile sold to Sree Budha College for Engineering for Women, Elavanthara vide invoice No.243 dated 8-09-2010. Copy of the above sale invoice and original purchase invoices were also produced by the dealer for verification. After the verification of these documents, the assessing authority satisfied that there is no inter-state sales effected through this transaction. Considering the above facts the CST assessment of the dealer has been completed vide order No.32010164864 dated 30-11-2015 as 'NIL' demand.</p>
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Para No.	Gist of the case	Present position										
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assessees and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Nirmala Automobiles (P) Ltd. 32010194902</td> </tr> <tr> <td>Year</td> <td>2011-12</td> </tr> <tr> <td>Turnover Short Reported (Rs.)</td> <td>1310107</td> </tr> <tr> <td>Total tax cess and interest</td> <td>211713</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>330802</td> </tr> </table>	Dealer Name / TIN	Nirmala Automobiles (P) Ltd. 32010194902	Year	2011-12	Turnover Short Reported (Rs.)	1310107	Total tax cess and interest	211713	Penalty (Rs.)	330802	<p>Sl.No.17 <u>Nirmala Automobiles (P) Ltd</u> <u>32010194902/2011-12</u> <u>CTO, Special Circle,</u> <u>Thiruvananthapuram</u></p> <p>Based on the audit objection the assessing authority issued notice to the dealer. On verification of the documentary evidences produced by the dealer, the assessing authority allowed the contentions of the dealer for Rs.13,05,607/- and completed the assessment vide order No.32010194902/2011-12 dated 30.11.2015. As per the amount order, escaped turnover of Rs.4,500/- is assessed along with the turnover conceded by the dealer thus creating an additional demand of Rs.1,340/- and the dealer remitted the amount vide chalan No.653/10.02.2016. Since the case is partially sustainable and the short levy is made good by the dealer the objection may be dropped.</p>
Dealer Name / TIN	Nirmala Automobiles (P) Ltd. 32010194902											
Year	2011-12											
Turnover Short Reported (Rs.)	1310107											
Total tax cess and interest	211713											
Penalty (Rs.)	330802											

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Case No. 163

Para No.	Gist of the case	Present position										
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assessee and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of K VATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>JCT Motors 32010619015</td> </tr> <tr> <td>Year</td> <td>2011-12</td> </tr> <tr> <td>Turnover Short Reported (Rs.)</td> <td>22,50,111/-</td> </tr> <tr> <td>Total tax cess and interest</td> <td>3,63,619/-</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>5,68,154/-</td> </tr> </table>	Dealer Name / TIN	JCT Motors 32010619015	Year	2011-12	Turnover Short Reported (Rs.)	22,50,111/-	Total tax cess and interest	3,63,619/-	Penalty (Rs.)	5,68,154/-	<p>Sl.No.18 JCT Motors <u>32010619015/2011-12</u> <u>CTO, Special Circle,</u> <u>Thiruvananthapuram</u></p> <p>Verified the audit objection. As per the K VATIS check post transactions (September 2011), it is stated that inter-state sales stating consignor J.C.T. Motors and consignee Hero Motors Corporation Ltd. as per invoice No.5110721641 dated 19-8-2011 for Rs.22.50 lakhs. In the same month there is another entry- inter-state purchase returns from J.C.T. Motors to Hero Motor Corporation in the same invoice No. & date. Actually it is an inter-state purchase from Hero Motor Corporation to J.C.T. Motors and inter-state purchase return from JCT Motors to Hero Motor Corporation. In the instant case there is no short reporting of any turnover towards inter-state sales.</p>
Dealer Name / TIN	JCT Motors 32010619015											
Year	2011-12											
Turnover Short Reported (Rs.)	22,50,111/-											
Total tax cess and interest	3,63,619/-											
Penalty (Rs.)	5,68,154/-											

Para No.	Gist of the case	Present position										
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assesseees and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1" data-bbox="327 1064 826 1444"> <thead> <tr> <th data-bbox="327 1064 574 1182">Dealer Name / TIN</th> <th data-bbox="574 1064 826 1182">New Chalai Agencies 32010874604</th> </tr> </thead> <tbody> <tr> <td data-bbox="327 1182 574 1229">Year</td> <td data-bbox="574 1182 826 1229">2010-11</td> </tr> <tr> <td data-bbox="327 1229 574 1312">Turnover Short Reported (Rs.)</td> <td data-bbox="574 1229 826 1312">21,45,524/-</td> </tr> <tr> <td data-bbox="327 1312 574 1395">Total tax cess and interest</td> <td data-bbox="574 1312 826 1395">3,79,222/-</td> </tr> <tr> <td data-bbox="327 1395 574 1444">Penalty (Rs.)</td> <td data-bbox="574 1395 826 1444">5,41,746/-</td> </tr> </tbody> </table>	Dealer Name / TIN	New Chalai Agencies 32010874604	Year	2010-11	Turnover Short Reported (Rs.)	21,45,524/-	Total tax cess and interest	3,79,222/-	Penalty (Rs.)	5,41,746/-	<p><u>Sl.No.19 New Chalai Agencies</u> <u>32010874604/2010-11</u> <u>CTO, Special Circle,</u> <u>Thiruvananthapuram</u></p> <p>The audit objection has been verified and it is seen that the inter-state sales effected are accounted and included in the returns and accounts. Since tax was fully collected for the inter-state sales they have included the inter-state sales under the tax head 12.5%, 4% and 0% without separating it as intra or inter. There is no short reporting of any turnover towards inter state sales in this case.</p>
Dealer Name / TIN	New Chalai Agencies 32010874604											
Year	2010-11											
Turnover Short Reported (Rs.)	21,45,524/-											
Total tax cess and interest	3,79,222/-											
Penalty (Rs.)	5,41,746/-											

Para No.	Gist of the case	Present position										
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assesseees and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1" data-bbox="306 996 849 1344"> <tr> <td data-bbox="306 996 577 1079">Dealer Name / TIN</td> <td data-bbox="577 996 849 1079">New Chalai Agencies 32010874604</td> </tr> <tr> <td data-bbox="306 1079 577 1131">Year</td> <td data-bbox="577 1079 849 1131">2011-12</td> </tr> <tr> <td data-bbox="306 1131 577 1214">Turnover Short Reported (Rs.)</td> <td data-bbox="577 1131 849 1214">17,58,551/-</td> </tr> <tr> <td data-bbox="306 1214 577 1296">Total tax cess and interest</td> <td data-bbox="577 1214 849 1296">2,84,182/-</td> </tr> <tr> <td data-bbox="306 1296 577 1344">Penalty (Rs.)</td> <td data-bbox="577 1296 849 1344">4,44,034/-</td> </tr> </table>	Dealer Name / TIN	New Chalai Agencies 32010874604	Year	2011-12	Turnover Short Reported (Rs.)	17,58,551/-	Total tax cess and interest	2,84,182/-	Penalty (Rs.)	4,44,034/-	<p><u>Sl.No.20 New Chalai Agencies</u> <u>32010874604/2011-12</u> <u>CTO, Special Circle,</u> <u>Thiruvananthapuram</u></p> <p>The audit objection has been verified and it is seen that the inter-state sales effected from April 2011 to July 2011 are accounted and included in their return and accounts. Since tax was fully collected for the inter-state sales, and included in the returns as sales under the head 0%, 4% and 12.5% without separating intra or inter. There is no short reporting of any turnover towards inter state sales in this case.</p>
Dealer Name / TIN	New Chalai Agencies 32010874604											
Year	2011-12											
Turnover Short Reported (Rs.)	17,58,551/-											
Total tax cess and interest	2,84,182/-											
Penalty (Rs.)	4,44,034/-											

Para No.	Gist of the case	Present position										
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assessee and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1" data-bbox="272 1086 705 1496"> <tr> <td data-bbox="272 1086 491 1234">Dealer Name / TIN</td> <td data-bbox="491 1086 705 1234">The Travancore Mat & Mattings Company 32040250132</td> </tr> <tr> <td data-bbox="272 1234 491 1285">Year</td> <td data-bbox="491 1234 705 1285">2011-12</td> </tr> <tr> <td data-bbox="272 1285 491 1368">Turnover Short Reported (Rs.)</td> <td data-bbox="491 1285 705 1368">1,48,54,913/-</td> </tr> <tr> <td data-bbox="272 1368 491 1451">Total tax cess and interest</td> <td data-bbox="491 1368 705 1451">7,57,001/-</td> </tr> <tr> <td data-bbox="272 1451 491 1496">Penalty (Rs.)</td> <td data-bbox="491 1451 705 1496">11,82,814/-</td> </tr> </table>	Dealer Name / TIN	The Travancore Mat & Mattings Company 32040250132	Year	2011-12	Turnover Short Reported (Rs.)	1,48,54,913/-	Total tax cess and interest	7,57,001/-	Penalty (Rs.)	11,82,814/-	<p><u>Sl.No.21 The Travancore Mat & Mattings Company 32040250132/2011-12 CTO, Special Circle, Alappuzha</u></p> <p>The Travancore Mats and Matting Company, Cherthala is an assessee on the rolls of Commercial Tax Office, Cherthala. The assessee filed annual return which disclosed inter-state sales for Rs.4,43,072/-. But as per audit report the inter-state sales disclosed is for Rs.1,56,53,984/-. The assessing authority verified the check post transactions in KVATIS. It is seen that the assessee had effected inter-state sale for Rs.1,50,14,442/-. The assessing authority adopted sales turnover of Rs.1,56,53,984/- which is disclosed in the audit report and issued notice under Rule 6(5) of the CST Rules on 13-10-2015. The assessee filed reply stating that as per accounts inter-state sales is Rs.1,56,53,984/-. But on verification of books of accounts the assessee had effected inter-state sales of coir products for Rs.54,77,608/- which is exempted from total inter-state sales. The balance taxable turnover of Rs.1,01,76,376/- is assessed to tax as per Order No.32040250132C/11-12 dated 6-6-2016 by fixing total turnover of CST sales for Rs.67,52,05,273/- and taxable turnover fixed for Rs.1,02,88,380/- creating an additional demand of Rs.17,15,050/- (Rs.11,35,797/- tax + Rs.5,79,253/- interest). Assessee filed appeal before DC(Appeal), Kollam a conditional stay order No. KVATA (ALPY)436/16 dtd. 22.09.2016 with direction to remit 20%. The dealer paid Rs. 3,43,010/- as per chalan No. 556/15.10.2016. The dealer opted Amnesty Scheme 2019 and paid Rs. 7,92,787/- as per chalan No. KL004072820201920M dtd. 01.07.2019.</p>
Dealer Name / TIN	The Travancore Mat & Mattings Company 32040250132											
Year	2011-12											
Turnover Short Reported (Rs.)	1,48,54,913/-											
Total tax cess and interest	7,57,001/-											
Penalty (Rs.)	11,82,814/-											

Para No.	Gist of the case	Present position										
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assessee and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1" data-bbox="268 1115 710 1529"> <tr> <td data-bbox="268 1115 486 1265">Dealer Name / TIN</td> <td data-bbox="486 1115 710 1265">Chemmarathil Cashew Company 32020207536</td> </tr> <tr> <td data-bbox="268 1265 486 1317">Year</td> <td data-bbox="486 1265 710 1317">2011-12</td> </tr> <tr> <td data-bbox="268 1317 486 1400">Turnover Short Reported (Rs.)</td> <td data-bbox="486 1317 710 1400">2318035</td> </tr> <tr> <td data-bbox="268 1400 486 1482">Total tax cess and interest</td> <td data-bbox="486 1400 710 1482">119871</td> </tr> <tr> <td data-bbox="268 1482 486 1529">Penalty</td> <td data-bbox="486 1482 710 1529">187298</td> </tr> </table>	Dealer Name / TIN	Chemmarathil Cashew Company 32020207536	Year	2011-12	Turnover Short Reported (Rs.)	2318035	Total tax cess and interest	119871	Penalty	187298	<p><u>Sl.No.22 M/s Chemmarathil Cashew Company 32020207536/2011-12 CTO, Special Circle, Kollam</u></p> <p>The audit objection is that the assessee had short reported the value of goods transported through checkpost to the tune of Rs.23,18,035/- for the year 2011-12.</p> <p>In this connection, verified the checkpost transactions of the assessee through out the year 2011-12. As per the details available through KVATIS, the total turnover which is stated as inter-state sales(nature of transaction) of the dealer during 2011-12 is Rs.353.25 lakhs as noted in the Audit Query. But on verification it is ascertained that even though the nature of transaction is noted in the checkpost data as inter-state sale, out of the total amount of Rs.353.25 lakhs, an amount of Rs.126.737 lakh is export sales and also an amount of Rs.20.325 lakh is import. So only Rs.206.18 lakhs (Rs.353.25-(126.737 + 20.325) related to inter-state sales of the dealer. The inter-state sales turnover conceded by the assessee is Rs.271.41 lakhs. So there is no short reporting of interstate sales turnover and consequently there is no short levy.</p>
Dealer Name / TIN	Chemmarathil Cashew Company 32020207536											
Year	2011-12											
Turnover Short Reported (Rs.)	2318035											
Total tax cess and interest	119871											
Penalty	187298											

341

Para No.	Gist of the case	Present position																
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assessee and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p> <table border="1"> <tr> <td>Dealer Name / TIN</td> <td>Hindalco Industries Ltd. 32110295501</td> </tr> <tr> <td>Year</td> <td>2010-11</td> </tr> <tr> <td>Turnover Short Reported (Rs.)</td> <td>9237186</td> </tr> <tr> <td>Total tax cess and interest</td> <td>158120</td> </tr> <tr> <td>Penalty (Rs.)</td> <td>225886</td> </tr> </table>	Dealer Name / TIN	Hindalco Industries Ltd. 32110295501	Year	2010-11	Turnover Short Reported (Rs.)	9237186	Total tax cess and interest	158120	Penalty (Rs.)	225886	<p>Sl.No.23 <u>Hindalco Industries Ltd.</u> <u>32110295501/2010-11</u> <u>CTO, Special Circle 1, Kozhikode</u></p> <p>The assessing authority verified the books of accounts of M/s Hindalco Industries Ltd for the year 2010-11 and found that the dealer had the following interstate sales/stock transfer during the year.</p> <table> <tr> <td>Inter-state sales</td> <td>:Rs.92,37,186.00</td> </tr> <tr> <td>Inter-state stock transfer</td> <td>:Rs.75,73,814.00</td> </tr> <tr> <td>Total</td> <td>: Rs.1,68,11,000.00</td> </tr> </table> <p>The total value of goods transported through the checkpost during 2010-11 was Rs.1,68,11,000. The dealer produced the copy of F forms along with supporting documents to prove the inter-state stock transfer of Rs.75,73,814/-. Since there is no short levy in this case, the audit objection may be dropped.</p>	Inter-state sales	:Rs.92,37,186.00	Inter-state stock transfer	:Rs.75,73,814.00	Total	: Rs.1,68,11,000.00
Dealer Name / TIN	Hindalco Industries Ltd. 32110295501																	
Year	2010-11																	
Turnover Short Reported (Rs.)	9237186																	
Total tax cess and interest	158120																	
Penalty (Rs.)	225886																	
Inter-state sales	:Rs.92,37,186.00																	
Inter-state stock transfer	:Rs.75,73,814.00																	
Total	: Rs.1,68,11,000.00																	

Para No.	Gist of the case	Present position																										
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Case No. 170

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1-12/26926				Products	Muthanga
321310/201 1- 12/132898	15.03.2012	1062	1,65,485. 00	Wood Traders	CTCP B Manjeswar
321310/201 1- 12/132899	15.03.2012	1062	1,62,240. 00	Wood Traders	CTCP B Manjeswar
321310/201 1- 12/132956	15.03.2012	1063	1,76,529. 00	S.N. Timbers	CTCP B Manjeswar
321310/201 1- 12/132957	15.03.2012	1063	1,70,868. 00	S.N. Timbers	CTCP B Manjeswar
321310/201 1- 12/140172	20.03.2012	1064	1,89,460. 00	Noor Timbers	CTCP B Manjeswar
321310/201 1- 12/140173	20.03.2012	1064	1,85,745. 00	Noor Timbers	CTCP B Manjeswar
321310/201 1- 12/141849	22.03.2012	1065	1,85,975. 00	New Enterprises	CTCP B Manjeswar
321310/201 1- 12/141851	22.03.2012	1065	1,82,328. 00	New Enterprises	CTCP B Manjeswar
321015/201 1-12/27946	28.03.2012	1066	1,49,736. 00	Malabar Timber & Furniture	CTCP Vazhikkada vu
321015/201 1-12/27947	28.03.2012	1066	1,52,731. 00	Malabar Timber & Furniture	CTCP Vazhikkada vu

Hence there is no short levy as reported by the Accountant General.

Sri .Muhammed Nazeem had reported total interstate sale of Rs.1,55,16,496/- for the year 2011-12. But on verification of KVATIS details, it is found the dealer had transported goods valued for Rs.1,68,03,358/- through the checkpost to outside state. Pointing out these short reporting a notice issued to the dealer, Against this proposal, the assessee had filed a reply, and stated that, he had made interstate sales of Rs.1,55,16,496/- for the year 2011-12. On verification of the checkpost transactions, it is found that duplication entries have been occurred, and these duplication considered in the assessment Order No.32111062222/2011 dt 29.02.2016 of this office. Copy of the same is enclosed herewith for ready reference. Hence the turnover reported by the assessee is found correct and no need to re assess the case . This is for your kind information.

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Para No.	Gist of the case	Present position
2.8.1	<p>Audit cross verified the details of inter state transfer of stock by way of sale or otherwise by the assessee with that of the annual returns filed by the assessee and found that 28 dealers under 14 CTOs had failed to report entire/part of their inter-state sales and stock transfer out, captured in check post module of KVATIS. The assessing authorities did not re-assess the same under section 25 of KVAT Act, 2003. This resulted in short payment of tax, cess and interest of Rs.2.19 crore. Penalty up to Rs.3.22 crore was also leviable in these cases.</p>	<p>Sl.No.26 PKV Trading Company 32090281942/2011-12 CTO, Special Circle, Palakkad</p> <p>On KVATIS Scrutiny, it is found that the assessee had effected interstate sales to the tune of Rs. 33,05,760.00 and Export to the tune of Rs.6,52,27,000.00 during the year 2011-12. But the assessee has neither declared the amount of Rs.33,05,760.00 in the annual return nor in the Audited Statement. The dealer also had not produced relevant statutory documentary evidences for export before the assessing authority at the time of finalizing the assessment. Therefore, the same was treated as sales suppression and accordingly the assessment was completed vide order No.32090281942/2011-12 dated 22.11.2016. Aggrieved by the assessment order, the dealer filed a writ petition before the Hon'ble High court of Kerala and the same was disposed vide judgement in WP(C) No.906/2017-K dated.12.01.2017. The contention of the dealer in the petition was that, the dealer has effected only local sales to M/s India Rubber and Chemicals, Kottayam (Ceyenar Associates). This firm ie. M/s.India Rubber and Chemicals has effected interstate sale with M/s. Birla Tyres, Prop: Kesoram Industries Ltd., Industrial estate, Uttarakhand. The Hon'ble High court of Kerala stayed the assessment order to the inter state stock transfer amounting to Rs.33,05,760/- and directed the assessee to implead the Assistant Commissioner, KVAT, Commercial Taxes, Kottayam, who is the assessing officer of M/s India Rubber and Chemicals, Kottayam, and also the said assessee and the court directed to prefer statutory remedy of appeal with respect to issue of export sales. As directed by the Hon'ble High court of Kerala, the assessee filed appeal before the Deputy Commissioner (Appeal, Palakkad. The Deputy Commissioner (Appeal) has disposed the appeal and directed the dealer to furnish the relevant documents related to the export, before the assessing authority and the assessing authority to verify and dispose the case on merit.</p>
Dealer Name / TIN	PKV Trading Company - 32090281942	
Year	2011-12	
Turnover Short Reported (Rs.)	33,05,760/-	
Total tax cess and interest	1,70,947/-	
Penalty (Rs.)	2,67,104/-	

Considering this point in favour of the revenue, adhere to order No. KVAT 16/2017 dated 27.02.2017 the Deputy Commissioner, Special circle has modified the original assessment order vide No.32090281942/2011-12(Modified) Dt.08-11-2018 as NIL demand.

Related to the issue of interstate sales of Rs.33,05,760.00 the dealer has submitted that the invoice of the said sale with one more which were done by him as local sale to a dealer named as M/s India Rubber and Chemicals (Ceyenar Associates), Kottayam having TIN 32050240582 vide invoice nos. R253 & R254 dt.30-03-2012. The dealer has also submitted a certificate issued by M/s India Rubber and Chemicals, Kottayam, purchaser, to prove his genuineness in the transaction. M/s India Rubber and Chemicals, Kottayam has also certified that, the same material was sold interstate to M/s Birla Tyres, Prop: Kesoram Industries Ltd., Industrial estate, Uttarakhand vide Delivery note Nos. 0271891 & 0271892 dt.30-03-2012. On further verification with KVATIS it is found that M/s PKV Trading Company has accounted local sales to M/s India Rubber and Chemicals, Kottayam (Ceyenar Associates) vide invoice no. R253 & R254 dt.30-03-2012. For Rs. 33,29,292/- each which was also accounted by M/s India Rubber and Chemicals, Kottayam (Ceyenar Associates). (Sale invoice also includes tax collected on rubber cess Rs. 1280/- hence total value comes to Rs.33,30,572.00). On verification with KVATIS data on checkpost transactions it is seen that Invoice No.0271891 Dt. 30-03-2012 Rs.33.557 lakhs was entered against M/s India Rubber and Chemicals, Kottayam (Ceyenar Associates) and Invoice no.0271892 Dt.30-03-2012.

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Dealer Name / TIN	Pure Petrochem India Pvt. Ltd. 32010860902											
Year	2010-11											
Turnover Short Reported (Rs.)	3465987											
Total tax cess and interest	612612											
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LBP Chennai/Trivandrum. The same materials processed and packed on job work basis and returning back to IOCL the actual owner of goods after paying central excise duty on account of IOC by pure petrochem india Pvt Ltd.

On verification of the trading, profit and loss account of the assessee it is seen that they have received processing and transportation charges income for an amount of Rs.11,88,663/-. Hence it is submitted that the inter-state transactions as per following check post entries are goods send back to IOCL after processing. The stock transfer document number is mentioned as invoice number.

Check post	Entry Date	Consignor	Consignee	Inv No	Inv. Date	Commodity	Quantity (Boxes)	Value (in lakhs)
Walayar CTCP	10/11/10	Pure Petrochem India Pvt Ltd	IOCL	3	9/11/10	Grease	-	11.528
Amara vila CTCP	26/11/10	Pure Petrochem India Pvt Ltd	IOCL	4	25/11/10	Lubricants of all kinds	651	9.683
Amara vila CTCP	17/1/11	Pure Petrochem India Pvt Ltd	IOCL	005/IO C	17/01/11	Lubricants of all kinds	566	80419
Amara vila CTCP	20/1/11	Pure Petrochem India Pvt Ltd	IOCL	6	20/01/11	Lubricants of all kinds	650	9.668
Amara vila CTCP	22/1/11	Pure Petrochem India Pvt Ltd	IOCL	7	22/01/11	Lubricants of all kinds	700	10.412
Amara vila CTCP	27/1/11	Pure Petrochem India Pvt Ltd	IOCL	8	27/01/11	Lubricants of all kinds	647	.395
Tot al	50.11							

On the basis of the above, it is clear that the materials supplied by the Indian Oil Corporation Ltd. vide their excise invoices are processed and returned to IOCL by M/s Pure Petrochem India Pvt Ltd according to the delivery schedule of IOCL. In return of this job work pure petrochem receives processing charges as income.

		<p>Hence this transaction appears to be in the nature of labour contract. There by there is no element of sale in these transactions. On verification of the books of accounts it is seen that the assessee had accounted all other inter-state transactions entered in the check post.</p>
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Para No:	Gist of the case	Present position										
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Dealer Name / TIN	Al-Mela Shopping (P) Ltd. 32010890995											
Year	2010-11											
Turnover Short Reported (Rs.)	5047874											
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Penalty (Rs.)	817134											

Para No.	Gist of the case	Present position																					
2.8.1 (b)	M/s.Tharayil Automobiles, Perinthalmanna was a dealer in Motor Vehicles and automobile spare parts. The assessee filed its annual return disclosing the sales turnover of Rs. 1.72 crore during 2011-12. As per P&L account of the assessee for 2011-12, the closing stock of spares conceded was Rs. 5.18 lakh. Audit found that as per the returns and accounts of the assessee for the previous years, its closing stock of spares for 2011-12 should be Rs. 1.13 crore. Hence, there was a suppression of turnover amounting to Rs. 1.12 crore resulting in short levy of tax of Rs. 15.68 lakh including cess and interest	As per the findings of Audit, the closing stock value for the year 2011-12 was calculated as Rs.1,13,24,546/- as against Rs.8,17,865/- which was conceded in Form 53 and leading to a suppression of closing stock of Rs.1,08,06,681/-. This was proposed to assessed to tax @ 12.5% by adding conceded G.P @ 3.54%. The dealer could not produce any satisfactory explanation with supporting documents regarding this point which was later converted as draft para and based on the above draft para, the assessment in respect of the dealer had been completed as per Order No. 32100296321/2011-12 dated 27.02.2017 creating an additional demand of Rs.22,37,848/-. Dealer remitted Rs.5,00,000/- towards demand as per Ch.No.7071330 dated 30/03/2017 of District Treasury, Malappuram. Aggrieved by the order the dealer filed appeal before the Deputy Commissioner (Appeals), Kozhikode and the Appellate Authority has directed to modify the assessment vide KVATA No.456/2017 dated 30.10.2017 by deleting the addition of escaped turnover after verifying the documents produced by the dealer. Notice has been issued to the dealer to produce the books of accounts for verification. The Assessing Authority has also filed second appeal before the Kerala Value Added Tax Additional Appellate Tribunal, Palakkad against the order of the Deputy Commissioner (Appeals) Kozhikode. Date of filing of second appeal was 29.12.2017 and the appeal is pending for disposal.																					
	<table border="1"> <thead> <tr> <th>Sl. No.</th> <th>Description</th> <th>Amount (Rs. in Cr.)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Closing Stock arrived at by Audit as per details in P&L Account</td> <td>1.13</td> </tr> <tr> <td>2.</td> <td>Closing stock as conceded by the assessee</td> <td>0.05</td> </tr> <tr> <td>3.</td> <td>Sales turnover suppressed (1-2)+GP</td> <td>1.12</td> </tr> <tr> <td>4.</td> <td>Tax short levied at 12.5 per cent on 3 above</td> <td>0.14</td> </tr> <tr> <td>5.</td> <td>Cess (one per cent) and interest (11 per cent)</td> <td>0.02</td> </tr> <tr> <td>6.</td> <td>Total short levy</td> <td>0.16</td> </tr> </tbody> </table>	Sl. No.	Description	Amount (Rs. in Cr.)	1.	Closing Stock arrived at by Audit as per details in P&L Account	1.13	2.	Closing stock as conceded by the assessee	0.05	3.	Sales turnover suppressed (1-2)+GP	1.12	4.	Tax short levied at 12.5 per cent on 3 above	0.14	5.	Cess (one per cent) and interest (11 per cent)	0.02	6.	Total short levy	0.16	
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Modified RMT:

The Appellate Tribunal, Additional Bench, Kozhikode set aside the order of 1st Appellate authority by allowing the appeal and the order of the assessing authority stands restored. Order No. TA(VAT) 789/2018 dated 27.07.2023. Received the order on 09.09.2023.

Para No.	Gist of the case	Present position																						
2.8.1 (c)	<p>M/s Kerala Automobiles, Manjeri was a dealer in motor vehicles and automobiles and spare parts. The sales turnover of spare parts conceded by the assessee for 2010-11 and 2011-12 were Rs.3.40 crore each. Audit found that the actual sales turnover during the years would come to Rs.3.99 crore each considering the stock balances, purchase conceded and applying GP of 3.88 per cent admitted by the assessee. The assessing authority did not select the case for assessment levying tax on the suppressed turnover. The suppressed turnover was worked out to Rs.1.18 crore and resultant short levy of tax amounted to Rs.17.36 lakh including cess and interest.</p>	<p><u>M/s Kerala Automobiles, Manjeri</u> <u>321004586242</u> <u>CTO, Special Circle, Malappuram</u> <u>2010-11</u></p> <p>Based on the Audit objection, the Assessing Authority had issued notice to the dealer to produce books of account for verification of invoices and sales ledger. Accordingly, books of accounts and bill copies of the dealer were verified by the assessing authority. On verification of the invoices produced, the Assessing Authority has noticed that accessories like sari guard, helmet, seat cover, tank cover etc. were sold along with vehicles separate accounts were maintained for this and this turnover comes to Rs. 56,51,287/-. If this turnover is included along with the turnover of spares and accessories Rs.3,40,36,335/- there would not be any escapement as pointed out by AG.</p> <p>It is also pertinent to note that audit objection was based on the derivation of escaped turnover under spares and accessories separately by taking the gross profit of 5.04%. If the same procedure is followed in case of vehicle sales, the following trading results will be arrived.</p> <table border="0"> <tr> <td>Opening stock</td> <td>: Rs. 1,31,90,334.00</td> </tr> <tr> <td>Add: Purchases</td> <td></td> </tr> <tr> <td>Local</td> <td>: Rs. 11,81,554.00</td> </tr> <tr> <td>Interstate</td> <td>: Rs.44,99,00,071.00</td> </tr> <tr> <td>Less: Closing stock</td> <td>: Rs. 2,40,44,095.00</td> </tr> <tr> <td>Cost of goods sold</td> <td>: Rs 44,02,27,874.00</td> </tr> <tr> <td>Add. G.P @5.04%</td> <td>: Rs. 2,21,87,485.00</td> </tr> <tr> <td>Sales turnover to be conceded:</td> <td></td> </tr> <tr> <td></td> <td>Rs.46,24,15,359.00</td> </tr> <tr> <td>Sales turnover conceded:</td> <td>Rs.46,88,58,022.00</td> </tr> <tr> <td>Excess conceded:</td> <td>Rs. 64,42,663.00.</td> </tr> </table> <p>It can be clearly concluded that the excess figure in vehicle sales is the turnover under spare and accessories sold along with vehicles. Though the purchases were made through one account, the sales were accounted in two ways, ie., spares and</p>	Opening stock	: Rs. 1,31,90,334.00	Add: Purchases		Local	: Rs. 11,81,554.00	Interstate	: Rs.44,99,00,071.00	Less: Closing stock	: Rs. 2,40,44,095.00	Cost of goods sold	: Rs 44,02,27,874.00	Add. G.P @5.04%	: Rs. 2,21,87,485.00	Sales turnover to be conceded:			Rs.46,24,15,359.00	Sales turnover conceded:	Rs.46,88,58,022.00	Excess conceded:	Rs. 64,42,663.00.
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accessories that are sold separately and that are sold by fitting on vehicle . The small variation in figure occurred due to the splitting up of trade results in respect of vehicles and spares separately.

2011-12

The assessment in respect of Sri. Abdul Azeez, Kerala Automobiles, Manjeri for the year 2011-12 was originally completed as per order No.32100458624/2011-12 dated 29.08.2016 creating an additional demand of Rs.19,02,846/- on the escaped turnover fixed under 'spares and accessories' and 'other income'. Aggrieved by this, the dealer filed appeal before the Deputy Commissioner (Appeals)-I, Kozhikode, who disposed the appeal on the findings that the suppressed turnover under spares and accessories was not that escaped from assessment but it was included in the vehicle sale disclosed, as these sales of spares and accessories was effected along with vehicles and the receipts under other income relate to receipt of incentives, sales promotion expenses, insurance claim, labour charge for oil change, free service coupon which will not form part of sales turnover under KVAT Act 2003. The appellate authority directed to verify these aspects and allow the claim of the dealer after verifying the supporting documents produced by them. Subsequent verification of bill copies and ledger of vehicle sales, service tax returns and other details and supporting evidences for the incentives received, etc. was done and the findings of the appellate authority were confirmed. Accordingly, addition of the turnover under spares and accessories and other income is deleted from the total turnover fixed and the original assessment for the year 2011-12 has been modified as a case of NIL demand as per the order No.32100458624/2011-12 dated 25.08.2018.

Para No.	Gist of the case	Present position												
2.8.1 (d)	<p>M/s Sahadevan Sons Bakers and Butlers Shop, Kozhikode was selling goods chargeable at different VAT rates-12.5 per cent, four per cent, One per cent and non-taxable. Audit found that the dealer disclosed Rs.80.98 lakh as sales turnover of 12.5 per cent taxable items in their annual return for 2010-11. Audit worked out the sales turnover of 12.5 per cent taxable confectioneries as Rs.1.32 crore for 2010-11 from their trading, profit and loss account and connected records. Apparent misclassification of sales of 12.5 per cent taxable goods as exempted/one/four per cent taxable goods resulted in short remittance of tax, cess and interest of Rs.7.21 lakhs.</p>	<p><u>M/s Sahadevan Sons Bakers and Butlers Shop</u> <u>32110849315(2010-11)</u> <u>CTO, III Circle, Kozhikode</u></p> <p>The defect pointed out by the audit team was misclassification of goods taxable @12.5% as 4% taxable items and non-taxable items. The short levy of tax + cess worked out by the audit team amounts to Rs.6,21,911/- interest due upto 6/12 was worked out as Rs.87,068/-.</p> <p>On verification of the audited final accounts, it is seen that though the total value of local purchases was given as split ups corresponding to different rates of tax applicable, the value of interstate purchase was given as a total figure without any mention regarding the applicable rate of tax. In the annual return filed the total interstate purchase value was shown against tax rate 12.5%. So the audit team treated the whole turnover as taxable @12.5% so as to arrive their findings.</p> <p>Thereafter the books of accounts of the assessee were called for and verified and break up of the total interstate purchase according to the books of accounts was noticed to be as follows:-</p> <table data-bbox="746 1238 1433 1525"> <thead> <tr> <th colspan="2" style="text-align: center;"><u>Inter-state purchase</u></th> </tr> </thead> <tbody> <tr> <td>Non- taxable</td> <td style="text-align: right;">Rs.21,84,184.52</td> </tr> <tr> <td>4% taxable</td> <td style="text-align: right;">Rs.38,12,413.79</td> </tr> <tr> <td>12.5% taxable</td> <td style="text-align: right;">Rs.62,80,280.80</td> </tr> <tr> <td>1% taxable</td> <td style="text-align: right;"><u>Rs. 1,87,655.49</u></td> </tr> <tr> <td></td> <td style="text-align: right;">Rs.1,24,64,534.60</td> </tr> </tbody> </table> <p>The assessee also produced trading account showing the split up of total interstate purchase value. He contended that it was only by mistake the total inter-state purchase value was shown as taxable @12.5% in the annual return. He also produced detailed statement of the interstate purchases showing the name of the supplying dealers and the value of purchases from each, under different applicable tax rates. The genuineness of the details and documents produced later by the assessee was verified through the check post details in the KVATIS. The invoice details uploaded from the concerned check posts shows the details like name of the</p>	<u>Inter-state purchase</u>		Non- taxable	Rs.21,84,184.52	4% taxable	Rs.38,12,413.79	12.5% taxable	Rs.62,80,280.80	1% taxable	<u>Rs. 1,87,655.49</u>		Rs.1,24,64,534.60
<u>Inter-state purchase</u>														
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1% taxable	<u>Rs. 1,87,655.49</u>													
	Rs.1,24,64,534.60													

dealer, invoice No and date, name of goods supplied, value of goods etc. Thus the genuineness of the statement of the assessee was checked and was proved to the satisfaction of the assessing authority. The goods purchased inter-state includes asfoitida, paper bags, baking power, essence of all kinds, food preservatives and coloring materials, food products branded, Ice cream, chocolate products, Chocolates (other), carry bags (paper cloth), cocoa powder, dry fruits, glucose, liquid containing fructose, sugar confectionery custard powder, packing cases, bags plastic, milk products, yeast(dried), chemical elements(doped other), food flavoring materials, saccharine salts.

Then upon detailed analysis, misclassification of 4% taxable items among non-taxable and 1% taxable items were noticed. But the turnover escaped was not so large a figure as analysed by the audit team. The purchase invoices were also produced by the assessee and verified. The total escapement of 4% taxable turnover was found to be Rs.5,29,108.30. Assessment to the best of the judgment was resorted to and an additional demand of Rs.35,402/- towards tax and cess was created along with interest Rs.7,257/-. The total dues coming upto Rs.42,659/- was paid by the assessee vide cheque No.000502 dated 28-06-2013 of the HDFC Bank, Kozhikode. Considering the above facts, the audit objection may be dropped.

Para No.	Gist of the case	Present position
2.8.1 (e)	<p>M/s. Purushotham Gokuldas, Kannur was a dealer in Readymade garments, cosmetics, medicines etc. During 2010-11 they self assessed sales turnover of readymade garments for Rs. 48.58 lakh. Audit found that as per audited accounts the assessee had an opening stock, interstate stock transfer (in) and closing stock of readymade garments for Rs.1.79 crore, Rs.71.76 lakh and Rs, 84.88 lakh respectively. As such the cost of readymade sold would be Rs.1.66 crore which was not completely included in the taxable turnover for self assessment. But the assessing authority also did not re-assess to tax the escaped sales turnover of Rs.1.17 crore. This resulted in short levy of tax, cess and interest of Rs.5.59 lakh.</p>	<p>On the basis of the audit observation, the assessment in respect of Smt.Damayanthi Suryakanth Pop. M/s.Purushotham Gokuldas, Kannur U/s.25(1) of the KVAT Act for the year 2010-11 has been completed as per order No.32120644724/2010-11 dt.01.04.2013 by demanding Rs.5,82,065/- (Tax Rs.4,68,540/- + cess Rs.4,685/- + Interest Rs.1,08,840/-). Aggrieved by this order the assessee has filed appeal before the Deputy Commissioner (Appeals), Kozhikode. The Deputy Commissioner (Appeals), Kozhikode considered the petition and granted conditional stay as per order No.SP-196 in VATA 594/2013 dt. 02.08.2013 that the proceedings to recover the impugned demand is stayed if the appellant pay 30% of total demand within one month of receipt of said order. The assessee has paid Rs.2,05,000/- vide receipt No.480370 dt.10.09.2013. Then the Deputy Commissioner (Appeals), Kozhikode has modified the assessment as per VATA 594/2013 dt.06.10.2014. As per the direction of appellate authority, the assessment was modified as per order No.321206447/10-11 dt.01.07.2016 by demanding Rs.5,61,625/- (Tax Rs.4,68,540/- + Cess Rs.4,685/- + Interest Rs.88,400/-) The assessee filed 2nd appeal before Deputy Commissioner (Appeals), Kozhikode with a contention that the assessing authority denied the modification order by accruing the non issuance of 'F' Form. As no supporting documents was produced to prove their claim the Deputy Commissioner (Appeals), Kozhikode dismissed the appeal as per VATA 1301/17 dt.17.01.2018. The dealer opted Amnesty Scheme 2018-19 and paid Rs.4,73,225/- (tax Rs.4,68,540/- +Cess Rs.4,685/-) Vide Chalan No.KL00258546201819M dt.11.06.2018.</p>

Para No.	Gist of the case	Present position
2.8.1(f)	<p>The audit scrutiny at the O/o. the CTO, 2nd Cir., Thissur revealed certain irregularities in respect of M/s. FUMR Agro Exports (P) Ltd., a dealer in rice, sauces, jams, etc. as below.</p> <p>The dealer filed his annual return for the year 2009-10 disclosing the turnover taxable at 12.5 percent as Rs.26.16 lakhs. Audit found that as per their annual return for 2009-10 they had purchased 12.5% taxable items for Rs.64.14 lakh during the year. Closing stock of 12.5% taxable goods disclosed being Rs.6.36 lakh, the sales turnover would come to Rs.59.43 lakh, considering the conceded GP of 2.85 percent. The assessing authority also did not assess tax on the escaped turnover of Rs.33.27 lakh. This has resulted in short levy of tax, cess and interest of Rs.5 lakh.</p>	<p>The original assessment in respect of the dealer M/s. Fumr Agro Exports (P) Limited was completed vide Order No. 32080671292/2009-10 dated 01.03.2013 and raised an additional demand of Rs. 5,53,599/-.</p> <p>The assessee filed appeal against this before the Assistant Commissioner (Appeals), Thrissur and the Assistant Commissioner (Appeals) accepted the contention raised by the assessee that the suppressed turnover of Rs. 31,62,300/- pointed out in the audit was due to the clerical mistake happened while classifying the items between 1% and 12.5% and the same was corrected in the audited statement. In KVATA 312/2013 dated 27.10.2014, appellate authority directed to modify the original assessment order by deleting purchase suppression of Rs. 32,124/- and escaped turnover of Rs. 31,62,300/- and also by reducing the addition made towards probable omission and suppression from Rs. 57,85,978/- to Rs. 25,92,000/-. In the light of the Appellate order, the assessing authority modified the original assessment and the demand reduced to Rs. 3,50,948/- which has been collected from the assessee under Revenue recovery.</p>

Para No.	Gist of the case	Present position
2.9	<p>The audit objection in this case is that M/s. Voltas Limited, Kochi was a dealer in air conditioner, automobiles spare parts, white goods etc. During 2011-12 the assessee imported fork lift from Italy and sold it to Port Officer, Kollam Port and availed exemption on its sale turnover of ₹ 2.84 crore claiming it as sale in the course of import. Audit found that as per the delivery note, the ownership of the commodity was with the assessee even after it crossed customs frontiers of India and hence subsequent sale was intrastate sale liable to be taxed under KVAT Act, 2003. Assessing authority did not complete the assessment rectifying the defect. Failure to assess VAT at 12.5 per cent resulted in short levy of tax , cess and interest of ₹ 42.09 lakh.</p>	<p><u>M/s. Voltas Limited, Kochi / 2011-12</u> Based on the audit objection the final assessment was completed as per order No. 32070266965/2011-12 dtd.25.5.2015 incorporating certain other defects found and created additional demand of Rs. 1,72,00,431/- as tax and Rs. 65,36,164/- as interest. Aggrieved by this order, the assessee filed appeal before the Deputy Commissioner(Appeal), Ernakulam vide KVATA No. 1536/15. The above issue was confirmed by the DC(Appeals) in favour of revenue but directed to modify the order with respect to some other issue. Accordingly, assessment was modified on 31.03.2018 with a demand of Rs. 37,42,900/-. The dealer filed second appeal before the Hon'ble Appellate Tribunal and the Tribunal vide TA No. 23/18 dated 25.07.2018 granted stay till the disposal of the appeal. The appeal is still pending.</p>

Para No.	Gist of the case	Present position
2.10(a)	<p>M/s. Keltron Communications, Thiruvananthapuram as assessee borne on the rolls of Assistant Commissioner, Special Circle, Thiruvananthapuram engaged in installation and commissioning of traffic signaling system, did not assess any tax on contract receipts of Rs.1.11 crore and Rs.95.18 lakh received during 2009-10 and 2010-11 respectively for erection, commissioning and installation services of their contract works. As the contract was of signaling system which is in the form of goods the entire turnover was liable to be assessed at 12.5 per cent. Non – assessment of contract receipts to tax resulted in short levy of tax, cess and interest of Rs.33.13 lakh.</p>	<p>M/s. Keltron Communication, Thiruvananthapuram / 2009-10 & 2010-11 Assistant Commissioner, Special Circle, Thiruvananthapuram 2009-10</p> <p>The audit objection in this case is short levy of tax due to non assessment of contract receipts to tax for the year 2009-10. Subsequent to this, assessment was completed vide proceedings No.32010111832/2009-10 dated 01.07.2013. Additional demand was created for Rs.14,03,210/-(tax) and Rs.6,31,444/-(interest).</p> <p>Assessment in these cases were done mainly on the ground that income received by the dealer from 'Erection , Commissioning or Installation services' was not included in the taxable turnover conceded in the annual return for the respective period. As per data available in the trading, profit and loss account furnished by the dealer for the said periods, an amount of Rs.1,11,14,549/- as received in this head during 2009-10.</p> <p>Aggrieved by this order, the assessee filed appeal before the Deputy Commissioner (Appeals), Thiruvananthapuram in which conditional stay was granted to remit 40% of the disputed tax and interest and on furnishing adequate security as per Order No. KVATA 226/13 dated 29.10.2013. Accordingly, the dealer has remitted Rs.8,13,862/- vide chalan No.195 dated 11.12.2013 (copy of chalan enclosed for ready reference). Later on, the appeal was dismissed vide Order No.KVATA 226/13 dated 28.07.2016 and confirmed the assessment order.</p> <p>Consequent on the above dismissal, the assessee filed second appeal vide TA VAT 338/2016 before the Appellate Tribunal, Thiruvananthapuram.</p> <p>The appeal was partly allowed vide Order dated 22.06.2022 directing the assessing authority to modify the assessment orders. The Tribunal observed that the assessment order as well as the appellate order are liable to be modified. The appellant shall submit evidence in possession before the assessing authority to prove the claim. On receipt of such evidence, the assessing authority shall consider the same with reasonable opportunity of</p>

hearing to the appellant before passing orders in accordance with law.

And now, the modification is pending for producing the documents and evidences.

2010-11

Based on audit objection, the assessment in respect of the dealer for the year 2010-11 has been completed on 1.07.2014 by the Assistant Commissioner, Special Circle, Thiruvananthapuram Creating an additional demand of ₹. 23,85,443/- . Aggrieved by this the dealer filed appeal before the Deputy Commissioner(A), Thiruvananthapuram and the Deputy Commissioner(A), Thiruvananthapuram vide order No. KVATA -402/14 dated 24-01-2015 granted conditional stay. The dealer fulfilled the conditional stay by remitting ₹. 8,06,348/- and furnished security for the balance amount. Appeal was dismissed vide order dtd 28.7.16 RRC No.146/16-17 issued. The assessee filed second appeal vide TA(VAT) No. 338/16 & 339/16 before the Appellate Tribunal, Thiruvananthapuram in which the appeal is partly allowed vide order dated 22.06.2022 directing the assessing authority to modify the assessment. Notice for hearing was issued to the assessee and the modification is pending for disposal.

Para No.	Gist of the case	Present position																																									
2.10(b)	<p>M/s. Jose Electricals, Kollam, a dealer in electrical goods and who undertakes electrical contract works also, had during 2008-09, 2009-10 and 2010-11 received Rs. 95.46 lakh, Rs. 46.29 lakh and Rs. 92.90 lakh respectively on various electrical contract works awarded by Railways, PWD Electrical Division, Kollam Corporation, Kerala State IT Mission etc. They claimed exemption from tax on these receipts on the ground that materials involved were already assessed to tax at scheduled rate at the time of purchase. As the assessee is liable to pay tax under Sec. 6(1) (f) of KVAT Act, 2003, cost of goods transferred to works contract together with profit element was liable to be assessed at 12.5 per cent. Audit has observed that failure to levy of tax on cost of goods along with profit element resulted in short levy of tax, cess and interest of Rs. 16.70 lakh.</p>	<p>In the light of the audit observation, the assessment in respect of M/s. Jose Electricals, Kollam for the year 2008-09, 2009-10 and 2010-11 was finalized by the Assistant Commissioner, Special Circle, Kollam as per order No. 32020613684/08-09 and 09-10 dated 26.04.2013 creating additional demand of Rs. 5,00,644/-, Rs. 4,02,843/- and Rs. 7,78,920/- respectively.</p> <p>The assessee challenged these orders by filing appeal before the Deputy Commissioner(A), Kollam. The assessment for the year 2008-09 to 2010-11 was modified on 28.04.2015 in obedience to the appellate order KVATA 520, 521 & 522 dated 09.10.2014. As there were certain errors apparent on the face of records, the modified orders were rectified U/s.66 of KVAT Act and issued fresh modified order on 05.06.2015.</p> <p>Collection particulars are detailed below Rs.1,00,000/- as per Chalan No.353/31.10.2015) Rs.25,000/- as per chalan No.199 dated 03.10.2015, Rs.1,03,417/- as per cheque No.108541 dated 29.03.2016 (Chalan No.895/31.03.2016), Rs.1,00,000/- has been remitted in RR, Taluk authorities as per cheque No.398033 dated 04.12.2015 Kodak Mahindra Bank and passed on 07.01.2016.</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Original demand (26.04.2013)</th> <th>Interest</th> <th>Modified demand (28.04.2015)</th> <th>Interest</th> <th>Rectified demand u/s. 66 (05.06.2015)</th> <th>Interest</th> </tr> </thead> <tbody> <tr> <td>2008-09</td> <td>340574</td> <td>160070</td> <td>72508</td> <td>47885</td> <td>58262</td> <td>42531</td> </tr> <tr> <td>2009-10</td> <td>298402</td> <td>104441</td> <td>63138</td> <td>15153</td> <td>48525</td> <td>29600</td> </tr> <tr> <td>2010-11</td> <td>633268</td> <td>145562</td> <td>135222</td> <td>32543</td> <td>92916</td> <td>45529</td> </tr> <tr> <td>Grand Total</td> <td colspan="2">Rs. 16,82,317</td> <td colspan="2">Rs. 3,66,329/-</td> <td colspan="2">Rs. 3,17,363/-</td> </tr> </tbody> </table>							Year	Original demand (26.04.2013)	Interest	Modified demand (28.04.2015)	Interest	Rectified demand u/s. 66 (05.06.2015)	Interest	2008-09	340574	160070	72508	47885	58262	42531	2009-10	298402	104441	63138	15153	48525	29600	2010-11	633268	145562	135222	32543	92916	45529	Grand Total	Rs. 16,82,317		Rs. 3,66,329/-		Rs. 3,17,363/-	
Year	Original demand (26.04.2013)	Interest	Modified demand (28.04.2015)	Interest	Rectified demand u/s. 66 (05.06.2015)	Interest																																					
2008-09	340574	160070	72508	47885	58262	42531																																					
2009-10	298402	104441	63138	15153	48525	29600																																					
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Grand Total	Rs. 16,82,317		Rs. 3,66,329/-		Rs. 3,17,363/-																																						

Para No.	Gist of the case	Present position
2.11	<p>M/s. Kuzhuvamannil Industries, Pullad was a metal crushing unit. They had two primary crushers and four secondary crushers during 2010-11 for which they paid Rs.16.80 lakh as compounded tax. Audit found that as per annexure to the balance sheet of the assessee for 2010-11, they had purchased a cone crusher for Rs.57.49 lakh during the year and availed admissible depreciation during 2010-11 and 2011-12. However the cone crusher was not taken into account to assess the compounded tax for the year 2011-12, while the assessing authority fixed the compounded tax for 2011-12. Consequently compounded tax for the year was fixed at Rs.16.97 lakh including cess instead of Rs.39.69 lakh. The assessing authority also did not rectify the defect in the self assessment. This resulted in short levy of tax, cess and interest of Rs.26.59 lakh.</p>	<p>Sri. K.M.Mathew, Kuzhuvamannil Industries, Thiruvalla is having a metal crusher unit and the assessee had opted for payment of tax under compounding system for his machinery and the compounded tax was fixed at Rs.16,80,000/- for the for the year 2010-11 vide order dtd.30-6-2010 of the CTO, Thiruvalla. Verification of the Annexure of Fixed Assets for the year ended 31st March 2011 revealed that the assessee has bought a cone crusher and claimed depreciation @ 15% for 6 months which fetched Rs.4,31,179/-.</p> <p>As per Rule 12(7) of the KVAT Rules, 2005, in such case the dealer has to furnish the details of such purchase to the assessing authority within 15 days so that the assessing authority can revise the assessment order accordingly. In this case the dealer did not inform the matter to the assessing authority and hence the compounding order was not revised.</p> <p>In the light of audit objection, the assessing authority completed the assessment vide order No. 32030516834/2010-11 and 2011-12 dated 28-8-14 demanding balance tax amount of Rs.22,72,500/- along with interest of Rs.9,31,725/- for the year 2010-11 and Rs.22,75,500/- as tax and Rs.6,59,025/- as interest for the year 2011-12.</p> <p>Aggrieved by the order the dealer filed appeal before the Deputy Commissioner (Appeals)-II, Kollam and the appeal was dismissed. As the dealer was not satisfied by the order he approached the Tribunal. The Tribunal viewed that the 'Assessing authority' was expected to make a site visit at the crusher unit to ascertain the real time fact as and when needed or before issuing permission for compounding. The 'Assessing authority' relied only on a fact of deduction of depreciation to ascertain that there no production using the said cone crusher. Further mode of supplementary evidence was also warranted. There was no substantial evidence to conclude that the appellant had used the cone crusher for production during the years 2010-11 & 2011-12.</p> <p>Considering the above fact the Tribunal had set aside the 1st appellate order and assessment order for the years 2010-11 and 2011-12 and remanded for fresh disposal. In the light of the Tribunal order, fresh order was issued as there is no scope for filing OT Revision in this case.</p>

Para No.	Gist of the case	Present position												
2.12	<p>Audit scrutiny at the office of the Commercial Tax Officer (WC&LT) revealed certain irregularities in the assessment in respect of M/s.Renil Auto Garage, Thrissur an assessee running the business of body building for motor vehicles.</p> <p>During the period from 2006-07 to 2009-10 their total turnover was Rs.1.61 crore. Audit found that the assessee self assessed to tax the above turnover at two / three per cent, treating it as works contract instead of assessing it as sale at 12.5 per cent. The assessing authority did not complete the assessment rectifying the defect. This resulted in short levy of tax, cess and interest of Rs.22.26 lakh.</p>	<p>In view of the audit objection, the assessment for the years 2006-07 to 2009-10 was completed on 29.08.2013 and assessed the contract work under entry No.67 of the RNR goods with additional demand as shown below:</p> <table border="0"> <tr> <td>2006-07</td> <td>-</td> <td>Rs.7,24,813/-</td> </tr> <tr> <td>2007-08</td> <td>-</td> <td>Rs.6,05,573/-</td> </tr> <tr> <td>2008-09</td> <td>-</td> <td>Rs.5,08,246/-</td> </tr> <tr> <td>2009-10</td> <td>-</td> <td>Rs.3,83,834/-</td> </tr> </table> <p>Subsequently RRC was issued to collect the dues. The assessee went for appeal which the Assistant Commissioner (Appeals), Thrissur vide Order No. KVATA 458, 459, 460, 461, 462 and 463/13 dated 19.05.2014, has annulled the order of the assessing authority, on the findings that the assessing authority is barred from further assessment proceedings as the orders issued for compounding has not been cancelled. Re-opening of assessment U/s.25(1) is not sustainable until and unless the compounding option admitted by the assessee is cancelled. But the finding of the Appellate authority is not at all acceptable since the same is against the statute and also against the clear and specific verdict of the Hon'ble High Court in C.C.Sebastian Vs. State of Kerala (2008) (16 KTR 117).</p> <p>The State filed second appeal against the appellate order. The Hon'ble Tribunal dismissed the second appeal and upheld the order of the appellate authority. Against the Tribunal order, State filed OT Revision before the Hon'ble High Court of Kerala and the Hon'ble High Court in OT Rev. No. 79 of 2018 dated 29.07.2022 set aside the Tribunal order and directed the Tribunal to dispose the appeal within four months from the date of receipt of the order.</p>	2006-07	-	Rs.7,24,813/-	2007-08	-	Rs.6,05,573/-	2008-09	-	Rs.5,08,246/-	2009-10	-	Rs.3,83,834/-
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2009-10	-	Rs.3,83,834/-												

Modified RMT:

Hon'ble KVAT Appellate Tribunal, Ernakulam in common order in TA(VAT) Nos 564/2014(2006- 07), 568/2014 (2007-08) dismissed the appeals filed by the State for the years 2006-07 and 2007- 08 and in TA(VAT) Nos. 569/2014(2008-09), 565/2014(2009-10) Dt 25.01.2023 allowed the appeals filed by the State for 2008-09 and 2009-10. The dealer filed OT Revision for the years 2008- 09 and 2009-10 and the Hon'ble HC in OT(Rev) Nos. 9,10,11 & 12 of 2023 dated 07.03.2023 granted interim stay. For 2006-07 and 2007-08 State filed TRC.

Para No.	Gist of the case	Present position
2.13	<p>M/s.K-Link Healthcare India Pvt. Ltd, Palarivattom is an assessee on the rolls of the office of Commercial Tax Officer, 2nd circle, Kalamassery. The assessee is a hundred percent retail business / direct marketing company and goods dealt with are received fully through stock transfer from outside the State. The observation by audit is follows:</p> <p>In Commercial Tax Office, 2nd circle, Kalamassery, scrutiny of assessment files for 2011-12 in respect of M/s.K-Link Health Care India Pvt. Ltd, the Kerala arm of a multinational company involved in direct marketing of health care products revealed that, though the entire product for sale is imported from outside the state and sales turnover was Rs.7,13,67,718.00. Out put tax of Rs.77,98,000/- was not increased by a surcharge at 10%. This resulted in short levy of tax, and interest of Rs.8,73,376.00. Under section 3 (1A) of Kerala Surcharge on Taxes Act 1957, in the case of national or multinational companies functioning in the state as retail chains or direct marketing chains who import not less than 50% of their stock from outside the state or country, and not less than 75% of whose sales are retail business and whose total turnover exceeds 5 crore rupees per annum, output tax and purchase tax payable under KVAT Act shall be increased by a surcharge at the rate of 10%.</p>	<p>The audit objection is found sustainable. On the basis of audit objection the assessment for the year 2011-12 was completed under Sec: 25 (1) of the VAT Act as per Order No.32071307275/11-12 dtd 03.12.13. While completing the assessment the assessing authority disallowed the irregular claim of discount claimed by the assessee thereby creating a total additional demand of Rs.27,80,400/- (Tax Rs.13,90,445/- Surcharge Rs.9,26,555/- and Interest Rs.4,63,390/-) as against the short levy of Rs.873376/- pointed out by Accountant General.</p> <p>Aggrieved by the above assessment, the assessee filed appeal before the Deputy Commissioner(Appeals). The dealer paid 50% of the tax of Rs. 13,95,000/-vide challan No. 321/29.01.2014. The appeal was dismissed by the appellate authority vide order NO. KVATA 233/14 dated 30.05.2014. The revenue recovery proceedings were initiated vide RRC No. 162/13-14 dated 17.03.2014. The assessee filed second appeal before STAT, Ernakulam and received stay vide order NO. TA(VAT) No. 417/2014 dated 18.09.2014 against the recovery of the balance tax demanded till the disposal of the appeal subject to the condition that the petitioner shall furnish security for the balance tax demanded within 30 days from the date of order. But the assessee did not fulfill the stay condition and hence the stay order by STAT was automatically vacated and the above matter was intimated to IAC, Ernakulam and the balance amount is collectable. The above case was pending before the STAT, Ernakulam.</p>

Para No.	Gist of the case	Present position
2.14	<p>As per the audit scrutiny of the Trading, Profit and Loss account filed by M/s. Angadippuram Blue Metals for the year 2007-08, they had a sales turnover of Rs.27.04 lakhs. The Accountant General pointed out that no action was taken to assess this turnover to tax and failure to invoke sec.25 to assess the escaped turnover resulted in short levy of tax and interest of Rs.5.54 lakhs.</p>	<p>The business place of M/s. Angadippuram Blue Metals, Ernthode, Valamboor – P.O., an unregistered crusher unit, was inspected by the Int. Officer, Sq.No.I, Malappuam and prepared SIR dtd.23-08-2007. The IO on verification of the material available on record determined suppressed turnover at Rs.26,49,835/- and imposed penalty of Rs.6,62,458/- as per Order No.TRL-14/2007-08 dtd.31-03-2008. Then the file was forwarded to CTO, Perinthalmanna for further action. Accordingly, the CTO, Perinthalmanna proceeded to complete the assessment for 2007-08 u/s.25(1) of the KVAT Act based on the penalty proceedings of the IO. The CTO called for the records and verified the same. On verification of the records, the CTO noted that the dealer had reported the sales turnover of Rs. 27,03,711/-. The objection raised in this case by the AG is non levy of tax on the above turnover reported by the dealer.</p> <p>The CTO issued proposal for assessment and duly served the same on the dealer. But the dealer neither responded nor utilized the opportunity granted to present case before the assessing authority. In the circumstances, the assessing authority completed the assessment for the year 2007-08 to the best of judgment u/s.25(1) of the KVAT Act demanded tax of Rs.11,73,271/- and interest Rs.3,53,195/-.</p> <p>The above demand was advised for RR as per RRC No.1/2014 dtd.23-04-2014.</p> <p>But the recovery of the same was stayed by the Hon'ble HC of Kerala as per Judgment dtd.09-06-2014 in W.P.(C) No.14457/2014(1). Now as per order no.TA (VAT) 1142/2013 dtd.23-07-2014, the Hon'ble KVAT Appellate Tribunal, Palakkad has set aside the penalty proceedings of the IO and remanded the case for fresh disposal.</p> <p>In response to the appellate order, the accounts were verified on 12.11.2014 and fixed total turnover Rs. 31,96,164/- and taxable turnover Rs. 21,96,164/- and tax Rs. 3,32,542/-. The dealer applied for compounding the offence vide letter dated 12.11.2014 and compounded the offence at</p>

Rs. 3,40,000/- as per order dated 12.11.2014. The dealer remitted the compounding fee and completed tax payment as per Rt. 308385 dated 26.11.2013.

In the light of appellate order No. KVAT 686/2014 dated 21/08/2015, the assessment was modified vide order No.32100784367/07-08 dated 27.11.2015 on the basis of fresh order passed by Intelligence Officer. The dealer has paid balance tax Rs. 28,673/- and interest for Rs. 26,093/- as per chalan No. 324 dated 04/12/2015. At present there are no action to be taken in this case.

Para No.	Gist of the case	Present position																		
2.15(a)	<p>M/s. Thiruvankulam Tourist Home Tripunithura was a bar attached hotel on the rolls of the Commercial Tax Office, 1st Circle, Tripunithura. As per the assessment order for 2008-09, the compounded tax payable by the assessee for the year based on preceding years tax was Rs. 38.37 lakh taking the highest turnover tax for the previous consecutive three years. As such turnover tax for 2009-10 and 2010-11 would come to Rs. 44.56 lakh and Rs. 51.25 lakh respectively including cess based on the turnover for 2008-09. However, the assessing authority while finalizing the assessment fixed turnover tax for 2009-10 and 2010-11 at Rs. 35.18 lakh and Rs. 40.80 lakh respectively. The incorrect computation of compounded tax resulted in short levy of tax and cess of Rs. 25.52 lakh.</p>	<p>Considering the Audit objection, the final assessment for the years 2009-10 and 2010-11 was completed creating an additional demand of Rs. 26.97 lakhs. The assessee remitted the entire amount with interest as detailed below:</p> <table border="1"> <thead> <tr> <th data-bbox="793 495 943 528"><u>Amount</u></th> <th data-bbox="1062 495 1337 528"><u>Chalan No. and Date</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="793 546 943 580">Rs. 3,00,000/-</td> <td data-bbox="1099 546 1270 580">17/10.02.2014</td> </tr> <tr> <td data-bbox="793 598 943 631">Rs. 6,05,605/-</td> <td data-bbox="1102 598 1289 631">143/22.02.2014</td> </tr> <tr> <td data-bbox="793 649 943 683">Rs. 2,00,000/-</td> <td data-bbox="1110 649 1300 683">317/30.03.2014</td> </tr> <tr> <td data-bbox="793 701 943 734">Rs. 1,39,130/-</td> <td data-bbox="1118 701 1305 734">752/17.07.2014</td> </tr> <tr> <td data-bbox="793 752 943 786">Rs. 10,00,000/-</td> <td data-bbox="1126 752 1313 786">318/06.02.2015</td> </tr> <tr> <td data-bbox="793 804 943 837">Rs. 2,00,000/-</td> <td data-bbox="1129 804 1313 837">347/28.03.2015</td> </tr> <tr> <td data-bbox="793 855 943 889">Rs. 4,30,186/-</td> <td data-bbox="1129 855 1313 889">286/24.06.2015</td> </tr> <tr> <td data-bbox="793 907 1054 940">Total Rs. 28,74,921/-</td> <td></td> </tr> </tbody> </table>	<u>Amount</u>	<u>Chalan No. and Date</u>	Rs. 3,00,000/-	17/10.02.2014	Rs. 6,05,605/-	143/22.02.2014	Rs. 2,00,000/-	317/30.03.2014	Rs. 1,39,130/-	752/17.07.2014	Rs. 10,00,000/-	318/06.02.2015	Rs. 2,00,000/-	347/28.03.2015	Rs. 4,30,186/-	286/24.06.2015	Total Rs. 28,74,921/-	
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Rs. 4,30,186/-	286/24.06.2015																			
Total Rs. 28,74,921/-																				

Para No	Gist of the case	Present position
2.15(b)	<p>M/s. Hotel Mithila Bar, Eramallur was a bar attached hotel. While finalising turnover tax assessment for 2007-08 turnover tax at compounded rate was arrived at Rs. 37.06 lakh taking the highest turnover tax payable for the previous consecutive three years and turnover tax for 2008-09 and 2009-10 were fixed at Rs. 42.62 lakh and Rs. 49.51 lakh respectively based on the turnover tax fixed for 2007-08, Audit found that the sale of liquor conceded in the P&L Account of the assessee for 2006-07 came to Rs. 35.90 lakh. As such the turnover tax for 2007-08 and 2008-09 and 2009-10 fixing at 115 per cent of that for preceding years, would be Rs. 41.28 lakh, Rs. 47.47 lakh and Rs. 54.59 lakh respectively. Incorrect computation of turnover tax resulted in short levy of tax, cess and interest of Rs. 21.13 lakh.</p>	<p><u>Modified RMT:</u> Sri. M. Manoj, Hotel Mithila, Eramalloor was a registered dealer on the rolls of Agricultural Income Tax and Commercial Tax Office, Kuthiathode under VAT and KGST bearing TIN 32041897312 and KGST 13220136. The assessee was compounded dealer under Sec. 7 of the KGST Act.</p> <p>The dealer had opted for payment of tax for the year 2007-08 U/Sec. 7(a) KGST Act. Assessment completed U/Sec. 7(b) of the Act vide order No. 13220136/2007-08 dated 04.03.2011 by creating additional demand turnover of tax of Rs. 4,90,516/- and interest Rs. 1,76,586/-. Against the order the assessee had filed appeal before the Deputy Commissioner (Appeals), Kollam and as per the order No. STA (ALPY) 142/2011 dated 18.04.2011, the Deputy Commissioner (Appeals), Kollam had conditionally stayed collection of demand till disposal of appeal on the condition that the appellant pay 40% of the balance turnover tax and interest due and furnish adequate security for the balance amount within 2 weeks. Dealer had fulfilled the condition of stay order.</p> <p>Subsequently the assessment was re opened under Sec. 19 of KGST Act vide order dated 30.03.2011 on the ground that while computing the purchase tax for the year 2005-06, it was omitted to consider opening stock of Rs. 12,23,960/-. Based on this, the turnover tax payable for the year 2007-08 was re-computed as Rs. 37,06,317/- against the assessed amount of Rs. 36,03,793/- in the original order. The dealer filed appeal against the order and as per order No. STA 222/11 dated 12.12.2012 the Deputy Commissioner (Appeals), Kollam had dismissed the same. Aggrieved by this the assessee filed 2nd appeal before STAT, Ernakulam in TA 10/2013.</p> <p>In the meantime, AG pointed out the defect on 27.05.2013. As per the audit objection, fresh notice dated 07.06.2013 U/ Sec. 19 was issued for the year 2007-08. But the dealer contended that the assessment is barred by limitation of time by 31.03.2013 and the assessing authority have no authority to re-open the assessment. Since the appeal against the original order dated 04.03.2011 for the year 2007-08 is pending with Deputy Commissioner (Appeals), Kollam and revised order dated 30.03.2011 U/Sec. 19 is pending with STAT, Ernakulam, suo motu cancellation U/Sec. 35 cannot be</p>

	<p>exercised in this case at that time.</p> <p>The appeals pending before STAT, Addl.Bench Kottayam was disposed as per TA Nos. 30/2015 to 40/2017 dated 08.02.2022. As the appeals were disposed the assessment order for the year 2007-08 was cancelled suo-moto u/s. 35(1) of KGST Act as per order dated 20.02.2023 of Joint Commissioner, Alappuzha and directed the assessing authority to complete the assessment afresh forthwith. The dealer filed WP(C) against this order and is stayed by the Hon'ble HC of Kerala as per WP(C) No. 7093/2023 dated 02.03.2023.</p> <p>Based on the audit objection, the assessment for the year 2008-09 and 2009-10 were re-opened under Sec. 19 of the KGST Act. The arrears are under Revenue Recovery. As per Order No. KVATA (ALPY) 458/2013 dated 09.09.2013, the Deputy Commissioner (Appeals), Kollam had stayed the collection of arrears till the disposal of appeal with direction to remit 25% of the arrears and furnish security for balance. Aggrieved by the order of the first appellate authority for the year 2008-09 and 2009-10, party filed second appeal before the STAT, Tribunal. The appeals pending before STAT, Addl.Bench Kottayam was disposed as per TA Nos. 30/2015 to 40/2017 dated 08.02.2022.</p> <p>The assessment for the year 2008-09 and 2009-10 were modified on 30.05.2023 as per the direction of the Appellate Tribunal by refixing the rate of interest based on its date of accrual as specified in the demand notice. [modified demand – Rs. 6,86,212/- (08-09), Rs. 7,50,014/- (09-10)]</p>
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Para No.	Gist of the case	Present position
2.15(c)	<p>M/s. Hotel Yuvaraj (P) Ltd., Thevara was a bar attached hotel. The turnover tax assessments for 2006-07, 2007-08 and 2008-09 of the assessee were revised in June 2012 and the turnover tax at compounded rate was fixed at Rs/ 28.64 lakh, Rs. 30.38 lakh and Rs. 32.43 lakh respectively. Audit found that based on compounded tax fixed for 2006-07, turnover tax for 2007-08 and 2008-09 would be Rs. 32.93 lakh and Rs. 38.52 lakh respectively at 115 per cent of the turnover tax for the preceding year. Incorrect computation resulted in short levy of turnover tax and cess of Rs. 8.37 lakh.</p>	<p>M/s. Hotel Yuvaraj (P) Ltd., M.G. Road, Thevara Jn., Ernakulam is a bar attached hotel. The assessee opted compounding scheme U/Sec. 7 of the KGST Act for payment of TOT and TOT was paid at 140% of the purchase value.</p> <p>The Audit Wing of the Accountant General on verification of records pointed out that as per the assessment records for 2006-07, the tax payable / paid was Rs. 28,63,690/- as conceded in the annual return for 2006-07 which is the highest one and as such 115% of it will be Rs. 32,93,243/- which is higher than 140% of the purchase value conceded for 2007-08 and 2008-09. Accordingly the assessments were revised as per assessment order No. 23041047/2007-08 (modified) dated 19.06.2014 creating additional demand of Rs. 2,54,914/- and interest of Rs. 89,220/-. The balance amount was recommended for revenue recovery. The assessee sought for installment facility for the year 2007-08 and 6 installments were granted of this the assessee paid Rs. 2,17,528/- and left out balance amount of Rs. 1,26,606/- 30% of balance amount ie. Rs. 38,300/- was paid vide treasury chalan No. 80/30.10.2014 in compliance of the Order No. STA 172/2014 and STA 173/2014 dated 08.10.2014 of Deputy Commissioner (A), Commercial Tax, Ernakulam.</p> <p>Likewise, the TOT due for the year 2008-09 would be 115% of the tax due for 2007-08. Which would come to Rs. 38,25,103/- (including cess) ie. 115% of Rs. 32,93,244/-. Based on the audit observation, the assessment was revised as per assessment order No. 23041047/2008-09 dated 23.06.2014 demanding tax of Rs. 5,82,183/- and interest of Rs. 1,45,546/- and the dealer has been allowed installment facility for payment. Out of which Rs. 3,40,578/- was paid leaving balance of Rs. 3,87,151/-. 30% of the balance amounting to Rs. 1,16,200/- was paid vide treasury chalan No. 82 dated 30.10.2014 in compliance of the above mentioned order of the Deputy Commissioner (A), Ernakulam. The appeal filed by the dealer for both the years have been dismissed by the Deputy Commissioner(Appeals), Ekm vide Order No. STA 172/2014 dated 21.03.2017 and STA 173/2014 dated 18.03.2017 respectively.</p>

Para No.	Gist of the case	Present position
2.15(d)	<p>M/s Envees Inn Bar, Eramallur was a bar attached hotel. While finalising turnover tax assessment for 2009-10, the assessing authority fixed the turnover tax at compounded rate of Rs.21.23 lakh and that of 2010-11 at Rs.24.41 lakhs. Audit found that the assessee conceded the sale of liquor in the P&L account for 2008-09 as Rs.1.98 crore and hence the turnover tax payable for 2008-09 would come to Rs.19.75 lakh. As such the turnover tax for 2009-10 and 2010-11, calculating at 115 per cent of that for preceding years would be Rs.22.72 lakh and Rs.26.12 lakh respectively. Incorrect computation of turnover tax resulted in short levy of tax, cess and interest of Rs.4.19 lakhs.</p>	<p><u>M/s Envees Inn Bar</u> <u>32041877106 (2009-10 & 2010-11)</u> <u>AIT & CTO, Kuthiathode</u></p> <p>The audit objection is that while finalising turnover tax assessment for the year 2009-10, in respect of M/s Envees Inn Bar, Eramalloor, the assessing authority fixed the turnover tax at compounded rate at Rs.21.23 lakhs and that for 2010-11 at Rs.24.41 lakhs. Audit found that the assessee conceded the sale of liquor in the P&L Account for 2008-09 as Rs.1.98 crore and hence the turnover tax payable for 2008-09 would come to Rs.19.75 lakh. As such the turnover tax for 2009-10 and 2010-11 calculated at 115 per cent of that for preceding years, would be Rs.22.72 lakh and Rs.26.12 lakh respectively. Incorrect computation of turnover tax resulted in short levy of tax, cess and interest of Rs.4.19 lakh.</p> <p>Smt.Baby Antony, Envees Inn Bar, Eramalloor was a registered dealer under VAT and KGST bearing TIN 32041877106 dealing with IMFL. The assessee was a compounded dealer under section 7 of the KGST Act.</p> <p>The assessee opted to pay turnover tax under section 7(a) of the KGST Act. The assessment for the year 2009-10 and 2010-11 was completed at 115% of the highest tax payable during the previous three years. While calculating the tax payable, the highest tax due for the year 2008-09 was wrongly reckoned at Rs.18,45,835/- instead of Rs.19,75,315/- as conceded in the accounts for the year 2008-09. This resulted in short levy of turnover tax amounting to Rs.2,05,035/- in 2009-10 and Rs.2,16,186/- in 2010-11.</p> <p>This was brought to the notice of the dealer and assessment was completed as per order No.32041877106/2009-10 dated 28-06-2013 and 32041877106/2010-11 dated 28-06-2013 by creating additional demand of Rs.2,07,540/- and Rs.2,17,916 respectively. The dealer filed writ petition WP(C) 23961/2013 against the order before the Hon'ble High Court. The Hon'ble High Court directed</p>

the petitioner to pay the outstanding arrear in six equal monthly installments. The dealer remitted the entire amount in six instalments as detailed below:-

2009-10

	Tax (Rs.)	Interest (Rs.)	Total (Rs.)
Chalan No.54/28-10-2013	25065	15540	40605
Chalan No.32/20-11-2013	25065	16793	41858
Chalan No.23/28-12-2013	25065	0	25065
Chalan No.47/30-01-2014	25065	11367	36432
Chalan No.41/28-02-2014	25065	11238	36303
Chalan No.99/29-03-2014	25065	10987	36052
TOTAL	150390	65926	216315

2010-11

	Tax (Rs.)	Interest (Rs.)	Total (Rs.)
Chalan No.55/28-10-2013	28,825	14413	43238
Chalan No.32/28-10-2013	28,825	15854	44679
Chalan No.22/28-10-2013	28,825	0	28825
Chalan No.48/28-10-2013	28,825	6150	34975
Chalan No.38/28-10-2013	28,825	9464	38289
Chalan No.51/28-10-2013	28,825	9176	38001
TOTAL	172950	66067	228007

Thus the dealer had remitted the entire amount Rs.1,50,390/- (Tax) and Rs.65,925/- (Interest) due for the year 2009-10 and Rs.1,72,950/- (Tax) and Rs.55,057 (Interest) due for the year 2010-11.

Para No.	Gist of the case	Present position																								
2.16(a) (1)	<p>M/s. Hotel City Light Pvt. Ltd., Pothencode and M/s. Hotel City Palace Pvt. Ltd., Pottakuzhy were bar attached hotels which opted for payment of tax at compounded rate.</p> <p>The turnover tax assessments for 2007-08 to 2009-10 of the assessees were originally finalised as a continuing business in December 2011 and revised in March 2012 accepting the assessee's claim that it was new business, as it was taken over from a firm by a newly incorporated company with effect from 1 April 2007. Consequently, turnover tax for 2007-08 was fixed based on purchase turnover of liquor instead of at 115% of the tax payable on 2006-07 which was higher. Tax for 2008-09 and 2009-10 were also fixed based on the incorrectly fixed tax for 2007-08.</p> <p>Audit found that the companies were registered in October 2005 and had applied for transfer of license in November 2005. As such, the companies were running the business since 2005-06. Bar Licenses were in the name of the same individual even after incorporation as company. If they were new entities after 31 March 2007, Rule 13(3) of FL Rules, 1953 ought to have prevented it from grant of bar licence as the hotels had no three star status. Incorrect assessments of 2007-08 to 2009-10 during revision resulted in short levy of tax, cess and interest amounting to ₹46.19 lakh.</p>	<p><u>M/s. Hotel City Light (P) Ltd. / 2007-08 to 2009-10</u> <u>Special Circle,</u> <u>Thiruvananthapuram.</u></p> <p>The KGST assessment of M/s Hotel City Light Pvt. Ltd was originally completed on 03.12.2011 for 2007-08, 08-09 and 09-10. The said assessment was revised on 17.03.2012 in compliance to the judgment dated 22.12.2011 of the Hon'ble High Court of Kerala in WP(C) No.33760/2011.</p> <p>Subsequent to this, audit objection was raised by the Accountant General Kerala and while finalizing the assessment for the years 2007-08, 08-09 and 09-10 the Deputy Commissioner, Thiruvananthapuram vide order No. B1-4767/14 dated 23.01.2015 directed to re-do the assessment afresh. On the basis of this suo-moto cancellation, assessment was completed afresh vide order No.11101227 dated 03.10.2015 for 2007-08, 08-09 and 09-10 respectively.</p> <p>In the meanwhile the assessee filed appeal before the Appellate Tribunal. The Appellate Tribunal disposed of the appeal as per order TA No.27/2015 dated 29.11.2018 by allowing it and held the order of the Deputy Commissioner, Thiruvananthapuram dated 23.01.2015 cancelling the revised</p>																								
	<table border="1"> <thead> <tr> <th data-bbox="271 1512 351 1624">Name of assessee / Area</th> <th colspan="3" data-bbox="383 1512 630 1579">Turnover tax fixed (in lakhs)</th> <th colspan="3" data-bbox="662 1512 909 1579">Turnover tax payable (in lakhs)</th> <th data-bbox="933 1512 1013 1736">Short levy (including cess and interest) (in lakhs)</th> </tr> <tr> <td data-bbox="271 1836 351 2128">M/s. Hotel City Light Pvt. Ltd., Pothencode, Panchayat area</td> <td data-bbox="375 1579 446 1825">2007-08 (based on purchase turnover of liquor)</td> <td data-bbox="454 1579 534 1825">2008-09 (115% of turnover tax for 07-08)</td> <td data-bbox="542 1579 630 1825">2009-10 (115% of turnover tax for 08-09)</td> <td data-bbox="646 1579 726 1825">2007-08 (based on tax payable for 06-07)</td> <td data-bbox="734 1579 813 1825">2008-09 (115% of turnover tax for 07-08)</td> <td data-bbox="821 1579 909 1825">2009-10 (115% of turnover tax for 08-09)</td> <td data-bbox="933 1836 1013 1870">37.00</td> </tr> </thead> <tbody> <tr> <td></td> <td data-bbox="375 1836 446 1870">28.98</td> <td data-bbox="454 1836 534 1870">33.84</td> <td data-bbox="542 1836 630 1870">38.92</td> <td data-bbox="646 1836 726 1870">36.39</td> <td data-bbox="734 1836 813 1870">42.27</td> <td data-bbox="821 1836 909 1870">48.61</td> <td></td> </tr> </tbody> </table>	Name of assessee / Area	Turnover tax fixed (in lakhs)			Turnover tax payable (in lakhs)			Short levy (including cess and interest) (in lakhs)	M/s. Hotel City Light Pvt. Ltd., Pothencode, Panchayat area	2007-08 (based on purchase turnover of liquor)	2008-09 (115% of turnover tax for 07-08)	2009-10 (115% of turnover tax for 08-09)	2007-08 (based on tax payable for 06-07)	2008-09 (115% of turnover tax for 07-08)	2009-10 (115% of turnover tax for 08-09)	37.00		28.98	33.84	38.92	36.39	42.27	48.61		
Name of assessee / Area	Turnover tax fixed (in lakhs)			Turnover tax payable (in lakhs)			Short levy (including cess and interest) (in lakhs)																			
M/s. Hotel City Light Pvt. Ltd., Pothencode, Panchayat area	2007-08 (based on purchase turnover of liquor)	2008-09 (115% of turnover tax for 07-08)	2009-10 (115% of turnover tax for 08-09)	2007-08 (based on tax payable for 06-07)	2008-09 (115% of turnover tax for 07-08)	2009-10 (115% of turnover tax for 08-09)	37.00																			
	28.98	33.84	38.92	36.39	42.27	48.61																				

assessment order/ rectification order dated 17.03.2012 (mistakenly stated as assessment order dated 03.12.2011) against the appellant for the year 2007-08 is set aside.

In effect, the assessment order dated 17.03.2012 is restored and the additional demand created is detailed below.

2007-08 Rs. 71,070/- [Rs.48,020/-
(tax), Rs.23,050/-(interest)]

2008-09 Rs.17,010/-[Rs.12,507/-
(tax), Rs.4,503/-(interest)]

2009-10 Rs.4,57,920/-
[Rs.3,69,290/-(tax),
Rs.88,630/-(interest)]

The assessee remitted the amount through various chalans.

Para No.	Gist of the case	Present position																								
2.16(a) (2)	<p>M/s. Hotel City Light Pvt. Ltd., Pothencode and M/s. Hotel City Palace Pvt. Ltd., Pottakuzhy were bar attached hotels which opted for payment of tax at compounded rate.</p> <p>The turnover tax assessments for 2007-08 to 2009-10 of the assesseees were originally finalised as a continuing business in December 2011 and revised in March 2012 accepting the assessee's claim that it was new business, as it was taken over from a firm by a newly incorporated company with effect from 1 April 2007. Consequently, turnover tax for 2007-08 was fixed based on purchase turnover of liquor instead of at 115% of the tax payable on 2006-07 which was higher. Tax for 2008-09 and 2009-10 were also fixed based on the incorrectly fixed tax for 2007-08.</p> <p>Audit found that the companies were registered in October 2005 and had applied for transfer of license in November 2005. As such, the companies were running the business since 2005-06. Bar Licenses were in the name of the same individual even after incorporation as company. If they were new entities after 31 March 2007, Rule 13(3) of FL Rules, 1953 ought to have prevented it from grant of bar licence as the hotels had no three star status. Incorrect assessments of 2007-08 to 2009-10 during revision resulted in short levy of tax, cess and interest amounting to ₹46.19 lakh.</p>	<p>M/s. Hotel City Palace (P) Ltd. / 2007-08 to 2009-10</p> <p>Special Circle,</p> <p>Thiruvananthapuram.</p> <p>KGST assessment of M/s Hotel City Palace Pvt. Ltd was originally completed on 20.08.2011 for 2007-08 , 08-09 and 09-10. The said assessment was revised on 17.03.2012 in compliance to the judgment dated 13.03.2012 of the Hon'ble High Court of Kerala in Writ Appeal No.473/2012.</p> <p>Subsequent to this, audit objection was raised by the Accountant General, Kerala and while finalizing the assessment for the years 2007-08, 08-09 and 09-10 the Deputy Commissioner, Thiruvananthapuram vide order No. B1-4766/14 dated 23.01.2015 and 19.05.2015 directed to re-do the assessment afresh. On the basis of this suo-moto cancellation, assessment was completed afresh vide order No.11101228 dated 10.09.2015 for 2007-08, 08-09 and 09-10 respectively.</p> <p>In the meanwhile the assessee filed appeal before the Appellate Tribunal. The Appellate Tribunal disposed of the appeal as per order TA No.28/2015 dated 29.11.2018 by allowing it and held the order of the Deputy Commissioner, Thiruvananthapuram dated 23.01.2015 cancelling the</p>																								
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Name of assessee / Area	Turnover tax fixed (in lakhs)			Turnover tax payable (in lakhs)			Short levy (including cess and interest) (in lakhs)																			
	2007-08 (based on purchase turnover of liquor)	2008-09 (115% of turnover tax for 07-08)	2009-10 (115% of turnover tax for 08-09)	2007-08 (based on tax payable for 06-07)	2008-09 (115% of turnover tax for 07-08)	2009-10 (115% of turnover tax for 08-09)																				
M/s. Hotel City Palace Pvt. Ltd., Pottakuzhy, Municipal Corporation area	15.98	18.56	21.35	17.80	20.67	23.77	9.19																			

		<p>revised assessment order/ rectification order dated 17.03.2012(mistakenly stated as assessment order dated 03.12.2011) against the appellant for the year 2007-08 is set aside.</p> <p>In effect, the assessment order dated 17.03.2012 is restored. The assessee remitted Rs.11,27,898/-.</p>
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Para No.	Gist of the case	Present position																																	
2.16(b)	<p>M/s. Kerala State Co-operative Consumer Federation Limited, Kochi is a dealer in many consumer products and IMFL. During 2011 – 12 the assessee conceded a turnover of Rs. 639.23 crore relating to sale of foreign liquor which was self assessed to turnover tax. Audit found that during the year the assessee had a trading income of Rs. 1.84 crore as per the P & L Account which included Rs. 96.64 lakh as Beer chilling charges. The assessee did not include this turnover for calculating turnover tax. The assessing authority also did not detect the omission. Escape of this turnover from assessment resulted in short levy of turnover tax, cess and interest of Rs. 5.71 lakh.</p>	<p>Considering the audit objection and other defects pending in the same year, the assessment under Section 17(3) of the KGST Act 1963 was completed as per order dated. 29.11.2014. Total additional demand comes to Rs. 15,68,459/- which is as detailed below:</p> <table data-bbox="715 656 1458 891"> <tr> <td>Balance TOT payable</td> <td>Rs.</td> <td>11,41,859/-</td> </tr> <tr> <td>Interest on balance TOT</td> <td>Rs.</td> <td>4,11,069/-</td> </tr> <tr> <td>Balance cess payable</td> <td>Rs.</td> <td>11,420/-</td> </tr> <tr> <td>Interest on balance cess</td> <td>Rs.</td> <td>4,111/-</td> </tr> <tr> <td>Grand Total</td> <td>Rs.</td> <td>15,68,459/-</td> </tr> </table> <p>Out of the above audit objections, additional demand with respect to the assessment of beer chilling charge can be calculated as follows:</p> <table data-bbox="715 1126 1469 1458"> <tr> <td>Chilling charge received</td> <td>Rs.</td> <td>96,64,178/-</td> </tr> <tr> <td>TOT due @5% the above amount</td> <td>Rs.</td> <td>4,83,209/-</td> </tr> <tr> <td>Cess due @1% of 4,83,209/-</td> <td>Rs.</td> <td>4,832/-</td> </tr> <tr> <td>TOT and Cess due</td> <td>Rs.</td> <td>4,88,041/-</td> </tr> <tr> <td>Interest</td> <td>Rs.</td> <td>1,75,685/-</td> </tr> <tr> <td>Total Additional demand including interest</td> <td>Rs.</td> <td>6,63,736/-</td> </tr> </table> <p>Total additional demand with respect to the above audit objection comes to Rs. 6,63,736/-.</p> <p>The entire dues has been paid by the dealer as per challan No. 6577 dated 23.03.2015.</p>	Balance TOT payable	Rs.	11,41,859/-	Interest on balance TOT	Rs.	4,11,069/-	Balance cess payable	Rs.	11,420/-	Interest on balance cess	Rs.	4,111/-	Grand Total	Rs.	15,68,459/-	Chilling charge received	Rs.	96,64,178/-	TOT due @5% the above amount	Rs.	4,83,209/-	Cess due @1% of 4,83,209/-	Rs.	4,832/-	TOT and Cess due	Rs.	4,88,041/-	Interest	Rs.	1,75,685/-	Total Additional demand including interest	Rs.	6,63,736/-
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Total Additional demand including interest	Rs.	6,63,736/-																																	

Para No.	Gist of the case	Present position
2.17	<p>M/s. Kerala State Co-operative Consumer Federation Limited, Kochi is a dealer in IMFL along with other consumer products. During 2011 – 12 they had a turnover of Rs. 639.23 crore relating to sales of IMFL for which turnover tax admitted was Rs. 34.33 crore. Audit found that the assessee was liable to pay one per cent cess on Rs. 34.33 crore which amounted to Rs. 34.33 lakh against which the assessee paid only Rs. 6.83 lakh. The assessing authority also did not take any steps to demand the short remittance of cess. This resulted in short collection of cess and interest of Rs. 32.17 lakh.</p>	<p>The assessment incorporating the social security cess was completed as per Order No. 32030138/2011-12 dated. 29.09.2012 demanding balance cess of Rs. 27,49,688/- and interest of Rs. 1,92,478/-. The assessee paid total amount of Rs. 29,42,166/- by way of DD dated 31.01.2013, which was credited to state account vide chalan no. 1 dated. 14.02.2013.</p> <p>Further the dealer remitted interest on delayed payment calculated Rs. 1,33,085/- vide challan No. 6589 dated 23.03.2015.</p>

Appendix III

APPENDICES FROM AG'S REPORT

Appendix – III (1)

(Ref: Paragraph 1.7.3)

Details of non-production of records

(₹ in crore)						
SL No.	Name office	Year in which to be audited	Number of cases not submitted		Tax amount	
			VAT	KGST	VAT	KGST
1.	CTO, Special. Circle (Produce), Mattancherry	2013-14	61	0	NIL	NIL
2.	CTO, Special Circle II, Ernakulam	2013-14	76	0	NIL	NIL
3.	CTO, Special Circle I, Ernakulam	2013-14	123	42	NIL	NIL
4.	CTO (WC<), Ernakulam	2013-14	394	0	NIL	NIL
5.	CTO, IV Circle, Ernakulam	2013-14	184	0	NIL	NIL
6.	CTO, Special Circle, Mattancherry	2013-14	47	0	NIL	NIL
7.	CTO, Special Circle III, Ernakulam	2013-14	27	0	NIL	NIL
8.	CTO, III Circle, Ernakulam	2013-14	76	0	NIL	NIL
9.	CTO, I Circle, Ernakulam	2013-14	147	0	NIL	NIL
10.	CTO (WC<), Mattancherry	2013-14	174	19	NIL	NIL
11.	CTO, Aluva	2013-14	159	1	NIL	NIL
12.	CTO, Angamally	2013-14	36	0	NIL	NIL
13.	CTO, I Circle, Kalamasserry	2013-14	18	0	NIL	NIL
14.	CTO, I, Circle, Tripunithura	2013-14	51	0	NIL	NIL
15.	CTO, Muvattupuzha	2013-14	21	0	NIL	NIL
16.	CTO, North Paravoor	2013-14	70	0	NIL	NIL
17.	CTO, Kothamangalam	2013-14	51	0	NIL	NIL
18.	CTO, II Circle, Thripunithura	2013-14	15	0	NIL	NIL
19.	CTO, I Circle, Mattancherry	2013-14	22	31	NIL	NIL
20.	CTO, III Circle, Palakkad	2013-14	2	0	NIL	NIL
21.	CTO, Mannarkkad	2013-14	12	0	NIL	NIL
22.	CTO, II Circle, Changanasserry	2013-14	66	0	NIL	NIL
23.	CTO, Special Circle, Malappuram	2013-14	52	0	NIL	NIL
24.	CTO, Tirur	2013-14	9	0	NIL	NIL
25.	CTO, Ottappalam	2013-14	2	0	NIL	NIL
26.	CTO, Pattambi	2013-14	46	0	NIL	NIL
27.	CTO, II Circle, Kottayam	2013-14	45	0	NIL	NIL
28.	CTO, I Circle, Kottayam	2013-14	21	0	NIL	NIL
29.	CTO, Ponkunnam	2013-14	154	0	NIL	NIL
30.	AIT & CTO, Alathur	2013-14	24	0	NIL	NIL
31.	CTO, Chittur	2013-14	51	0	NIL	NIL
32.	CTO, Special Circle, Kottayam	2013-14	20	0	NIL	NIL
33.	CTO, Manjeri	2013-14	160	0	NIL	NIL

Audit Report (Revenue Sector) for the year ended 31 March 2014

(₹ in crore)						
Sl. No.	Name office	Year in which to be audited	Number of cases not submitted		Tax amount	
			VAT	KGST	VAT	KGST
34.	CTO (WC<), Malappuram	2013-14	23	0	NIL	NIL
35.	CTO, Ponnani	2013-14	18	26	NIL	NIL
36.	CTO, Vaikom	2013-14	26	3	NIL	NIL
37.	CTO, Pala	2013-14	18	78	NIL	NIL
38.	CTO, I Circle, Palakkad	2013-14	18	18	NIL	NIL
39.	CTO (WC<), Palakkad	2013-14	46	0	NIL	NIL
40.	CTO, Special Circle, Palakkad	2013-14	42	0	NIL	NIL
41.	CTO, Tirurangadi	2013-14	18	0	NIL	NIL
42.	CTO, Special Circle, Thrissur	2013-14	3	3	NIL	NIL
43.	CTO, II Circle Thrissur	2013-14	50	0	NIL	NIL
44.	CTO, Chavakkad	2013-14	105	0	NIL	NIL
45.	CTO, Kayamkulam	2013-14	33	0	NIL	NIL
46.	CTO, Irinjalakuda	2013-14	83	0	NIL	NIL
47.	CTO, Kunnankulam	2013-14	23	0	NIL	NIL
48.	CTO, Kodungallur	2013-14	85	0	NIL	NIL
49.	CTO, Special Circle, Alappuzha	2013-14	67	0	NIL	NIL
50.	CTO, Wadakkancherry	2013-14	29	0	NIL	NIL
51.	CTO, I Circle, Alappuzha	2013-14	6	0	NIL	NIL
52.	CTO, I Circle, Trivandrum	2013-14	160	0	NIL	NIL
53.	CTO (WC<), Kollam	2013-14	27	0	NIL	NIL
54.	CTO (WC<), Pathanamthitta	2013-14	21	0	NIL	NIL
55.	CTO (WC<), Trivandrum	2013-14	58	0	NIL	NIL
56.	IAC, Pathanamthitta	2013-14	15	0	NIL	NIL
57.	CTO, Attingal	2013-14	164	0	NIL	NIL
58.	CTO, Pathanamthitta	2013-14	5	0	NIL	NIL
59.	CTO, I Circle, Kollam	2013-14	6	0	NIL	NIL
60.	CTO, Kottarakkara	2013-14	79	0	NIL	NIL
61.	CTO, Special Circle, Kollam	2013-14	167	0	NIL	NIL
62.	CTO, Karunagappally	2013-14	6	0	NIL	NIL
63.	CTO, Chathannoor	2013-14	44	0	NIL	NIL
64.	CTO, II Circle, Kozhikode	2013-14	15	0	NIL	NIL
65.	CTO, V Circle, Kozhikode	2013-14	220	50	NIL	NIL
66.	CTO, Kuthuparamba	2013-14	159	0	NIL	NIL
67.	CTO, III Circle, Kannur	2013-14	13	0	NIL	NIL
68.	CTO, Vadakara, Kozhikode	2013-14	220	61	NIL	NIL
69.	CTO, I Circle, Kozhikode	2013-14	31	0	NIL	NIL
70.	CTO, I Circle, Thalasserry	2013-14	4	0	NIL	NIL
71.	CTO, II Circle, Kannur	2013-14	121	0	NIL	NIL

(₹ in crore)						
Sl. No.	Name office	Year in which to be audited	Number of cases not submitted		Tax amount	
			VAT	KGST	VAT	KGST
72.	CTO, Payyannur, Kannur	2013-14	12	0	NIL	NIL
73.	CTO, Koyilandy, Kozhikode	2013-14	53	0	NIL	NIL
74.	CTO, III Circle, Kozhikode	2013-14	17	0	NIL	NIL
75.	CTO, Special Circle, Kozhikode	2013-14	28	0	NIL	NIL
76.	CTO, IV Circle, Kozhikode	2013-14	32	0	NIL	NIL
77.	CTO, Special Circle II, Kozhikode	2013-14	18	0	NIL	NIL
78.	CTO, Hosdurg	2013-14	14	0	NIL	NIL
79.	CTO, Perambra	2013-14	2	0	NIL	NIL
80.	CTO, II Circle, Thalasserry	2013-14	31	0	NIL	NIL
81.	CTO, Special Circle, Kasaragode	2013-14	1	0	NIL	NIL
82.	CTO, Special Circle, Trivandrum	2013-14	344	0	Nil	Nil
83.	CTO, III Circle Kozhikode	2013-14	24	0	NIL	NIL
84.	CTO, I Circle, Kannur	2013-14	4	0	NIL	NIL
85.	CTO, Kundara	2013-14	8	0	NIL	NIL
86.	CTO, Ranni	2013-14	7	0	NIL	NIL
87.	CTO, Sulthanbathery	2013-14	9	13	NIL	NIL
88.	CTO, Vythiri	2013-14	23	0	NIL	NIL
			5,271	345		
	Total		5,616			
	Taxes on Agricultural Income					
89.	CTO, Nedumkandom	2012-13	9		0.02	
90.	AIT & CTO, Chittur	2013-14	7		Nil	
91.	AIT & CTO, Thiruvananthapuram	2013-14	18		Nil	
92.	AIT & CTO, Ranni	2013-14	3		Nil	
	Total		37		0.02	
	Grant total		5,653			

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Appendix – III (2)
(Ref: Paragraph 1.9)

Details of action taken on the recommendations accepted by the Departments/Government

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
31 March 2008	Receipts from Luxury Tax	4	<p>The Government may consider</p> <ul style="list-style-type: none"> • making the budget estimates realistic. • maintain the prescribed register and to watch registration and renewal of the entities. • prescribing a mechanism for sharing of information amongst different departments to ensure all entities are brought under tax net. • prescribing penal provisions and accountability of the authorities. 	PA examined by PAC (28.10.2009) and their recommendations furnished in Report No. 133 (2008-11). PAC reiterated the recommendations of Audit and the department noted all of them for future guidance which was stated in the Action Taken Report.
31 March 2009	Cross verification of purchase/sale effected under KGST/KVAT/ CST Acts	5	<p>The Government may consider</p> <ul style="list-style-type: none"> • fixing targets for the intelligence officers for carrying out cross verification of records of the entry and exit check posts. • shifting the check post at Kunjippally to a more strategic location closer to the actual border with Mahe to arrest scope of evasion of tax. • prescribing a system of carrying out regular cross verification of declaration forms and issuing guidelines for checks to be conducted before accepting declaration forms. • issuing immediate orders withdrawing the waiver of tax, interest and penalty from the defaulting dealers. • making the internal audit wing functional and effective. 	<p>PA examined by PAC (15.09.2010) and their recommendations furnished in Report No. 9 (2011-14). The Committee agreed with the audit recommendation to fix targets for intelligence officers for carrying out cross verification of records and noted the impropriety in maintaining a check post at Kunjippally and recommended its expansion and urged that the issue of uniform floor rate of tax between Kerala and Mahe be taken up with Govt of India. The Committee also noted that the internal audit wing of the department was ineffective.</p> <p>The Dept observed in the Action Taken Report that uniform floor rate for petrol and diesel was a recommendation of the empowered committee when VAT was implemented but the states are reluctant to implement it. Once implemented, Kerala will also be bound by the same. No reply is</p>

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
				furnished by the Taxes dept on the rest of the recommendations.
	Information technology review of Package for effective administration of registration laws (PEARL)	11	<ul style="list-style-type: none"> • Officers should be nominated for effective liaison with NIC for completion and acceptance of the project of computerisation of Registration Dept. • Validation of data should be given utmost priority. • Individual databases should be merged and centralised. • AMC conditions should be strictly enforced. • Data backup policy should be revised. Offsite storage of daily backup should be made. • Digitisation of documents should be commenced. • A suitable Business Continuity/Disaster Management Plan should be formulated and implemented. • A password policy should be formulated and compliance ensured. • Environmental/physical access control weaknesses should be remedied in a timely fashion. • Enactment required for the computerised operation should be made. • A business process re-engineering should be done. 	PA examined by PAC (04.01.2012) and their recommendations furnished in Report No.18 (2011-14). During the discussion, the Secretary Taxes stated that the department had developed a modified version of PEARL i.e., PEARL 3.1 rectifying the deficiencies pointed out by the Accountant General. Separate module for audit was also incorporated in the version.
	Recovery of arrears of revenue under the Revenue Recovery Act	8	<p>The Government may</p> <ul style="list-style-type: none"> • prescribe a time limit/procedure to be followed by the RR officers for follow-up action on stay cases. • evolve a rational/scientific method in fixing targets and any shortfall in collection may be viewed critically. • insist that RRC should be returned only after exploring all means of realising the arrears by the requisitioning departments. • direct the requisitioning department to resort to revenue recovery action only after the expiry of appeal period. • insist that the Excise Department should take care of the realisation of arrears under RR Act. • enforce the timeframe prescribed strictly and periodic reconciliation of the RR cases. • serve a copy of the notice to the concerned Sub Registrar under his acknowledgement so as to comply with the provisions of the Transfer of Registry Rules 1966. • dispense with the system of direct collection by requisitioning department after 	PA examined by PAC (29.11.2012) and their recommendations furnished in Report No. 35 (2011-14). The Committee noted that the performance of the Revenue Dept in RR collection was pathetic and urged that earnest efforts should be made to realise the amount due. The Committee also recommended a monitoring mechanism in this regard. The Committee reiterated the view of audit that the Excise Dept should take care of realisation under RR in the cases under its purview. The position of the Dept with regard to the rest is not known since the Action Taken Report has not been furnished.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
	Transition from Sales Tax to VAT in Kerala (Standalone)	16	<p>the commencement of RR action and in special schemes enabling direct collection, RRC should be recalled from the RR department.</p> <p>The Government /Department may</p> <ul style="list-style-type: none"> • introduce at the earliest a comprehensive manual of VAT specifying procedures for administration of Act and Rule. • make provisions in the KVAT Rules for mandatory verification of records of Income Tax/Central Excise departments and TINXSYS while conducting audit assessments/assessment of escaped turnover. • consider amendment of Act/Rules to make mandatory deposit of percentage of tax, interest and penalty in dispute, before entertaining appeal cases to ensure registration of genuine appeal cases only and lessen the scope of evasion/run away cases. • amend the Act/Rules to fix a minimum penalty for each and every offence based on its magnitude to avoid unfettered discretion of the assessing officer. • effectively monitor disposal of pending assessments and collection of arrears of pre-VAT period. • evolve a foolproof mechanism for detection of unregistered dealers and bring them under the tax net. • publish in departmental website details of cancelled and suspended registrations to verify whether dealers avail ITC on goods purchased from such dealers. • create a database for uploading the stock position of dealers for future reference. • include an Audit Module in the KVATIS software. • enforce strict compliance of the provisions regarding filing of the returns and prescribe specific penal provisions for delayed filing of returns to arrest cases of delayed/non-filing of returns. • direct the AAs to conduct thorough scrutiny of the returns especially with reference to the figures of the enclosures to the audit certificate/P&L account submitted by the dealers. • take actions such as imposition of penalty, suspension of registration etc. Against those who fail to furnish the prescribed documents along with the returns, without it being limited to levy of penalty alone. • enforce compliance of time limit prescribed in the Act for disposal of the appeal cases. • give direction to the AAs for maintenance of basic records in the circles. • store details of monthly diary received from circles/check posts in computer so 	<p>PA examined by PAC (09.10.2013) and their recommendations furnished in Report No. 54 (2014-16). The Committee reiterated the audit recommendations regarding computerisation, development of an audit module in KVATIS, publication of a comprehensive Manual on KVAT, effective monitoring over completion of assessments of Pre-VAT period, compulsory registration of all dealers and amending the KVAT Act to strengthen the provision regarding imposition of penalty for first and subsequent offences.</p> <p>No information regarding the action taken on the above recommendations is available since Action Taken Statement has not been furnished.</p>

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			<p>that they can consolidate and retrieve it, whenever required and thus avoid wastage of time and manpower in collecting the same data again.</p> <ul style="list-style-type: none"> ensure that internal audit is strengthened. 	
31 March 2010	Levy and collection of Motor Vehicles Tax	7	<p>The Government may consider</p> <ul style="list-style-type: none"> adequate change in the fee for duplicate driving licence covering the cost of card. strengthen the enforcement wing to plug the offences committed under motor vehicle laws. securing the computer servers by providing necessary passwords. strengthen the input controls and validation checks. ensuring the quality of the infrastructure developed by the service provider. consider ways to render prompt services to the public without delay. strengthening the internal control mechanism. 	PA Examined by PAC (30.07.2014) and report is awaited.
	Working of Co-operation Department	7	<p>The Government may consider</p> <ul style="list-style-type: none"> devising suitable measures for monitoring the demand and levy of interest and penal interest. evolving appropriate mechanism for watching the realisation of dividend declared by the societies. strengthening the mechanism for watching the collection of guarantee commission. evolving a system for ascertaining the eligibility of beneficiaries before sanctioning the assistance. taking steps to avoid retention of huge amount received as loan from NCDC on behalf of beneficiaries in TP account for long period. taking effective steps for the realisation of amount under revenue recovery. issuing guidelines to improve the quality and functioning of internal audit wing. 	PA Examined by PAC (27.08.2014) and report is awaited.
31 March 2011	Compounding Schemes in Commercial Taxes Department	3	<p>The Government may consider</p> <ul style="list-style-type: none"> review of works contract compounding by a senior/supervisory officer prescribing proper registers to 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. 	Action taken explanatory notes received, but not discussed.
	Utilisation of declaration	2	<p>The Government may consider</p> <ul style="list-style-type: none"> issuing instructions regarding the checks to be carried out before accepting 	Action taken explanatory notes not received.

Audit Report (Revenue Sector) for the year ended 31 March 2014

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
	forms in inter-state trade		<p>declarations for allowing concession/exemption</p> <ul style="list-style-type: none"> strengthening the internal control mechanism. 	
	Levy and collection of stamp duty and registration fee	7	<p>The Government may</p> <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 understamped 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 licence 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 Examined by PAC(24.09.2014) and report is awaited.
	Computerisation in motor vehicles department	3	<p>The Department may</p> <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. consider recruiting qualified personnel to administer the IT applications. 	Action taken explanatory notes received but not discussed.
	Performance Audit of State Excise Department (Standalone)	11	<p>The Government /Department may</p> <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 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 	Action taken explanatory notes received but not discussed.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			<p>provide other support facilities like boat.</p> <ul style="list-style-type: none"> • 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. 	
31 March 2012	Levy and collection of VAT on evasion prone commodities/ areas in Commercial Taxes Department	5	<p>The Government /Department may consider</p> <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. • taking timely action to revise floor rates in respect of evasion prone commodities. 	Action taken explanatory notes not received.
	Conduct of Lotteries in the State	5	<p>The Department may</p> <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 not received.
31 March 2013	Performance Audit on Assessment, levy and collection of VAT on	6	<p>The Government /Department may ensure that</p> <ul style="list-style-type: none"> • separate identification numbers/code are assigned to work contractors. • separate account subheads are provided for accounting receipts under works contracts. • regular survey and inter-departmental cross verification of data are conducted to 	Action taken explanatory notes not received.

Audit Report (Revenue Sector) for the year ended 31 March 2014

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
	transfer of goods involved in the execution of works/supply contract		<p>identify the works contractors by strengthening the intelligence wing and suitable measures for registration are taken promptly.</p> <ul style="list-style-type: none"> • 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. 	
	Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City Kochi (Standalone)	13	<p>Audit recommends for</p> <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. • 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 inventorising 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. 	Action taken explanatory notes not received.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			<ul style="list-style-type: none"> conducting an indepth 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 indepth 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. 	
	Effectiveness of Kerala Value Added Tax Information System (KVATIS) in the Tax Administration of Commercial Taxes Department (Standalone)	20	<ul style="list-style-type: none"> 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. 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 	Action taken explanatory notes not received.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			<p>*for own use' without payment of tax.</p> <ul style="list-style-type: none"> • 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. • 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. 	

Appendix - III (3)

(Ref: Paragraph 2.4)

Short remittance of tax due to short accounting of purchases

Sl. No.	Office name	Dealer name/TIN	Year	Sales turnover arrived at (₹)	Total sales returned (₹)	Turnover escaped (₹)	Turnover-applicable tax rate (%)	Tax including cess due (₹)	Interest (₹)	Tax plus interest (₹)	Penalty (₹)
1	CTO Special Circle, Kannur	Karakkattu Agencies 32120203072	2010-11	1208618264	592558698	616059566	100-4.00	24888806	9955523	34844329	49777612
2	CTO, Special Circle, Kannur	Flash Traders 32120260795	2009-10	228253110	131023814	97229296	100-4.00	3928064	2042593	5970657	7856128
3	CTO, Special Circle, (Produce) Mattanchery	Vishal Export 32150336185	2009-10	678138852	363222312	314916540	100-4.00	12722628	6615767	19338395	25445256
4	CTO, Aluva	Njavallil Latex Pvt. Ltd 32150350585	2009-10	628310385	623638034	4672351	100-4.00	188763	98157	286920	377526
5	CTO, Special Circle I, Ernakulam	Evergrowing Iron & Finvest Ltd 32070247424	2011-12	880275358	558557196	321718162	100-4.00	12997414	3539276	16636690	25994828
6	CTO, Special Circle I, Ernakulam	Watts Electronics(Pvt) Ltd 32071694602	2010-11	198166882	181102113	17064769	100-4.00	689417	275767	965183	1378834
7	CTO, Special Circle III, Ernakulam	FCI OEN Connectors Ltd 32070418694	2009-10	2384459398	2027356430	357102968	43.56-12.5, 56.44-4.00	27781275	14446263	42227539	55562550
8	CTO, Special Circle III, Ernakulam	Hindustan Organic Chemicals Limited, Phenol Unit, Ambalamugal P.O 32070430405	2011-12	5431523863	5134818441	296705422	100-4.00	11986899	3356332	15343231	23973798

Sl. No.	Office name	Dealer name/TIN	Year	Sales turnover arrived at (₹)	Total sales returned (₹)	Turnover escaped (₹)	Turnover-applicable tax rate (%)	Tax including cess due (₹)	Interest (₹)	Tax plus interest (₹)	Penalty (₹)
9	CTO, Special Circle III, Ernakulam	Trinethra Super Retail Private Limited 32070482504	2011-12	1195708472	984741622	210966850	100-4.00	8523061	2386457	10909518	17046122
10	CTO, Special Circle III, Ernakulam	Acer India Pvt Ltd 32070485384	2011-12	1515195199	1417831587	97363612	100-4.00	3933490	1101377	5034867	7866980
11	CTO, Special Circle, Kottayam	Thomson Rubbers India Pvt. Ltd 32050222064	2011-12	1588622196	1584769107	3853089	100-4.00	155665	43586	199251	311330
12.	CTO, Special Circle, Mattanchery	Kancor Ingredients Limited 32150238895	2011-12	2505345390	2401333307	104012083	100-4.00	4202088	1176585	5378673	8404176
13	CTO, Special Circle, Mattanchery	Kancor Ingredients Limited 32150238895	2009-10	1809350282	1781710203	27640079	100-4.00	1116659	580663	1697322	2233318
14	CTO, Special Circle, Mattanchery	United Oil Industries 32150294515	2009-10	192640164	190180802	2459362	100-4.00	99358	51666	151024	198716
15	CTO, Special Circle, Mattanchery	Anna Aluminium Co.(P) Ltd 32150223134	2010-11	721760003	632043977	89716026	100-4.00	3624527	1449811	5074338	7249054
16	CTO, Special Circle, Mattanchery	Anna Aluminium Co.(P) Ltd 32150223134	2011-12	901750115	886271066	15479049	100-4.00	625354	175099	800453	1250708
17	CTO, Special Circle, Thrissur	M.P.R. Mercantile Syndicate 32081470975	2010-11	325808318	263322729	62485589	100-12.5	7888806	3155522	11044328	15777612
18	CTO, Special Circle, Thrissur	M.P.R. Mercantile Syndicate 32081470975	2011-12	658980822	585956681	73024141	100-12.5	9219298	2581403	11800701	18438596

Sl. No.	Office name	Dealer name/TIN	Year	Sales turnover arrived at (₹)	Total sales returned (₹)	Turnover escaped (₹)	Turnover-applicable tax rate (%)	Tax including cess due (₹)	Interest (₹)	Tax plus interest (₹)	Penalty (₹)
19	CTO, Special Circle, Thrissur	Hil Limited . 32080252004	2011-12	636050210	599482870	36567340	100-12.5	4616627	1292655	5909282	9233254
20	CTO, Special Circle, Thrissur	Parekkadens Enterpriscs 32080579784	2010-11	400279182	304090598	96188584	100-4.00	3886019	1554408	5440426	7772038
21	CTO, Special Circle, Thiruvananthapuram	EICL Limited 32010125905	2011-12	228798167	2051511645	236470025	100-4.00	9553389	2674949	12228338	19106778
22	CTO, Special Circle, Alappuzha	Duro Flex Pvt Ltd 32040231985	2011-12	442656290	424366204	18290086	12.77-12.5, 87.23- 4.00	939434	263041	1202476	1878868
23	CTO, Special Circle I, Kozhikode	Plymica Ltd 32110279492	2011-12	182067518	118454779	63612739	89-12.5, 11- 4.00	8278466	2317971	10596437	16556932
		TOTAL						161845507	61234871	223080378	323691014

Appendix -II (A)

(Ref: Paragraph 2.4)

Short remittance of tax due to short reporting of sales turnover

Sl. No	Office name	TIN	Dealer name	Year	Total sales accounted (₹)	Total turnover returned (₹)	Turnover escaped (₹)	Turnover-applicable tax rate (%)	Short levy including cess (₹)	Interest (₹)	Tax plus interest (₹)	Penalty (₹)
1	CTO, Special Circle, Kannur	32120239465	Soubhagya Tile House	2009-10	39980303	39098655	881648	91.79-12.5, 8.21- 4.00	105094	54649	159743	210188
2	CTO, Special Circle, Kannur	32120260222	PPM Chicken Agency Puthanpurayil	2009-10	55903756	53581756	2322000	92.37- 12.5, 07.63-4.00	270785	140808	411593	541570
3	CTO, Thaliparamba	32120441414	Arafa Store, Cherattiyadan	2009-10	65583489	64561964	1021525	89.78-12.5, 10.22- 4.00	120005	62403	182408	240010
4	CTO, Special Circle, Kannur	32120282575	Spice India Thayath	2010-11	578012426	575072426	2940000	100-4.00	118776	47510	166286	237552
5	CTO, II Circle, Kannur	32120666212	Klassik Traders	2010-11	39126956	38244460	882496	97.92- 12.5, 2.08- 4.00	109839	43936	153775	219678
6	CTO, Special Circle, Kannur	32120690635	Memi. K.	2010-11	120539539	114570365	5969174	100-4.00	241155	96462	337616	482309
7	CTO, Special Circle, Kannur	32122299892	New Pradeep Enterprises Leela R	2010-11	71892293	70455367	1436926	95.54- 12.5, 4.46- 4.00	175910	70364	246274	351820
8	CTO, Special Circle I, Ernakulam	32070298792	Shankara Infrastructure Materials Limited	2009-10	1201521008	991200332	210320676	100-4.00	8496955	4418417	12915372	16993911
9	CTO, Special Circle I, Ernakulam	32070289814	Asian Paints Limited	2010-11	4864284643	4849595041	14689602	100-12.50	1854562	741825	2596387	3709125

Sl. No	Office name	TIN	Dealer name	Year	Total sales accounted (₹)	Total turnover returned (₹)	Turnover escaped (₹)	Turnover-applicable tax rate (%)	Short levy including cess (₹)	Interest (₹)	Tax plus interest (₹)	Penalty (₹)
10	CTO, Special Circle I, Ernakulam	32071659412	A S K Rathnasamy Nadar	2010-11	128346307	126446714	1899593	76.45- 12.50, 23.55- 4.00	201418	80567	281986	402836
11	CTO, Special Circle II, Ernakulam	32070319705	WIPRO GE Healthcare Private Limited	2009-10	397606867	391430189	6176678	3.29- 12.50, 96.71- 4.00	266984	138831	405815	533967
12	CTO, Special Circle II, Ernakulam	32070363884	ULTRATECH Cement Limited	2009-10	2207044714	2203384318	3660396	100-12.50	462125	240305	702430	924250
13	CTO, Special Circle II, Ernakulam	32070344725	Falcon Tyres Ltd.	2010-11	1085289828	878327500	206962328	100-12.50	26128994	10451598	36580592	52257988
14	CTO, Special Circle III, Ernakulam	32070425422	Nitta Gelatin India Limited	2009-10	1996737048	1671585578	325151470	31.48- 4.00	4135250	2150330	6285580	8270501
15	CTO, Special Circle III, Ernakulam	32070463402	Nippon Motor Corporation Private Limited	2009-10	4680554024	4663257219	17296805	100-12.50	2183722	1135535	3319257	4367443
16	CTO, Special Circle III, Ernakulam	32070482954	The Travancore Cochin Chemicals Limited	2009-10	1174950859	1171366587	3584272	100-4.00	144805	75298	220103	289609
17	CTO, Special Circle III, Ernakulam	32071075424	Mark Associates, Renji	2009-10	212053700	187325594	24728106	79.41- 12.5, 20.59- 4.00	2684817	1396105	4080921	5369633
18	CTO, Special Circle III, Ernakulam	32070444974	Gulf Oil Lubricants India	2010-11	246681953	224430562	22251391	100-12.50	2809238	1123695	3932933	5618476
19	CTO, Special Circle III, Ernakulam	32070445604	Somany Ceramics Limited	2010-11	245412506	216949306	28463200	100-12.50	3593479	1437392	5030871	7186958
20	CTO, Special Circle III, Ernakulam	32071272895	RF Motors Private Limited	2011-12	802354709	799843734	2510975	100-12.50	317011	88763	405774	634021
21	CTO, Special Circle, Kottayam	32050274455	PAN Marketing	2009-10	186714470	179208376	7506094	100-12.50	947644	492775	1440420	1895289

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Sl. No	Office name	TIN	Dealer name	Year	Total sales accounted (₹)	Total turnover returned (₹)	Turnover escaped (₹)	Turnover-applicable tax rate (%)	Short levy including cess (₹)	Interest (₹)	Tax plus interest (₹)	Penalty (₹)
22	CTO, Special Circle, Kottayam	32050274962	Hindustan Newsprint Ltd	2010-11	3032277891	3028833130	3444761	100-4.00	139168	55667	194835	278337
23	CTO, Special Circle, Mattanchery	32150249572	Supreme Steel Industries	2009-10	123282298	119054823	4227475	100-4.00	170790	88811	259601	341580
24	CTO, Special Circle, Thrissur	32080290772	CJ Interio Mart C V Jose and Sons	2009-10	16998048	12705820	4292228	84.01- 12.5, 15.99- 4.00	482973	251146	734118	965945
25	CTO, Kodungallur	32081008634	Kunjikommu K.K,	2010-11	69469631	67661828	1807803	88.85- 12.50	202787	81115	283902	405574
26	CTO, Kunnamkulam	32081211022	Mandumpal Enterprises	2011-12	325710456	310769410	14941046	1.20- 12.50, 83.28- 4.00	525329	147092	672421	1050658
27	CTO, Special Circle, Thiruvananthapuram	32010619015	JCT Motors	2009-10	297898427	264495295	33403132	12.50	4217145	2192916	6410061	8434291
28	CTO, Special Circle, Thiruvananthapuram	32010888442	Indroyal Crafts Private Limited.	2009-10	115249914	113182755	2067159	98.5- 12.50, 1.5- 4.00	258317	134325	392642	516634
29	CTO, Attingal	32010152725	Jaya Agencies	2010-11	38509483	34231688	4277795	98.5- 12.50, 1.5- 4.00	534563	213825	748388	1069126
30	CTO, Special Circle, Thiruvananthapuram	32010164864	South Indian Federation of Fishermen Societies	2010-11	64227953	58591850	5636103	69.58- 12.50, 30.42- 4.00	564368	225747	790115	1128736
31	CTO, Special Circle, Thiruvananthapuram	32010616225	Indroyal Furniture Company Private Limited	2010-11	135092159	133924742	1167417	100-12.50	147386	58955	206341	294773
32	CTO Special Circle, Thiruvananthapuram	32010103844	Adtech Systems Limited	2011-12	382631539	371081567	11549972	100-12.50	1458184	408292	1866476	2916368
33	CTO, Cherthala	32040250132	The Travancore Mats & Matting Co.	2009-10	451602517	447288686	4313831	19.91- 12.50, 66.32- 4.00	224016	116488	340504	448032
34	CTO, I Circle, Alappuzha	32040296245	S D Pharmacy	2010-11	42934888	37236308	5698580	100-4.00	230223	92089	322312	460445

Sl. No	Office name	TIN	Dealer name	Year	Total sales accounted (₹)	Total turnover returned (₹)	Turnover escaped (₹)	Turnover-applicable tax rate (%)	Short levy including cess (₹)	Interest (₹)	Tax plus interest (₹)	Penalty (₹)
45	CTO, Special Circle I, Kozhikode	32110218674	Acc Automobiles Private Limited	2009-10	182857074	176745691	6111383	97.88- 12.50, 2.12- 4.00	- 760439	395428	1155868	1520879
46	CTO, Special Circle I, Kozhikode	32110222904	Parisons Foods Private Limited	2009-10	3259626180	3240516363	19109817	98.65- 4.00	761614	396039	1157653	1523228
47	CTO, Special Circle I, Kozhikode	32110267645	Plast O Plast	2009-10	390686794	372875066	17811728	100-4.00	719594	374189	1093783	1439188
48	CTO, Special Circle I, Kozhikode	32110276375	Gunnebo India Private Limited	2009-10	47262253	41938875	5323378	100-12.50	672076	349480	1021556	1344153
49	CTO, Special Circle I, Kozhikode	32110845401	APCO Automobiles Private Limited	2009-10	452826862	450713008	2113854	100-12.50	266874	138774	405649	533748
50	CTO, Special Circle I, Kozhikode	32110869104	Kalliyath Sanitary Centre	2009-10	92206353	91246413	959940	97.91- 12.50, 2.09- 4.00	119470	62124	181594	238940
51	CTO, Special Circle I, Kozhikode	32110295501	Hindalco Industries Limited	2010-11	1231560747	1223986933	7573814	3.64- 12.50, 96.36- 4.00	329650	131860	461510	659300
52	CTO, Vadakara	32111266904	Bhima Traders	2009-10	81093256	77391330	3701926	100-12.50	467368	243031	710400	934736
53	CTO, Vadakara	32111266904	Bhima Traders	2010-11	52255552	49720985	2534567	100-12.50	319989	127996	447985	639978
54	CTO, Vadakara	32111266904	Bhima Traders	2011-12	39387022	33841272	5545750	100-12.50	700151	196042	896193	1400302
55	CTO, Special Circle II, Kozhikode	32110361842	KTC Automobiles P Ltd	2009-10	1936462706	1483195191	453267515	100-12.50	57225024	29757012	86982036	114450047
56	CTO, III Circle, Kozhikode	32110364305	Radiant Market Beams Pvt Ltd	2009-10	11421673	9331334	2090339	93.5- 12.50, 6.5- 4.00	252241	131165	383406	504481
57	CTO, Special Circle II, Kozhikode	32110777462	WALL N FLOOR	2009-10	50661134	49729992	931142	98.19- 12.50, 1.81- 4.00	116110	60377	176487	232220
58	CTO, Special Circle II, Kozhikode	32111077184	Cresecent Woods	2009-10	9428464	7001192	2427272	63.62- 12.50, 36.38- 4.00	230634	119930	350564	461268

Sl. No	Office name	TIN	Dealer name	Year	Total sales accounted (₹)	Total turnover returned (₹)	Turnover escaped (₹)	Turnover-applicable tax rate (%)	Short levy including cess (₹)	Interest (₹)	Tax plus interest (₹)	Penalty (₹)
59	CTO, Vadakara	32111236192	M/s Roshini Traders	2009-10	39873553	37688715	2184838	46.10- 12.50, 53.90- 4.00	174736	90863	265599	349473
60	CTO, II Circle, Kozhikode	32110759282	Mukkom Tyres	2010-11	81274278	80173941	1100337	100-12.50	138918	55567	194485	277835
61	CTO, IV Circle, Kozhikode	32110921855	Manasi Initiatives	2010-11	65134259	62079096	3055163	21.04- 12.50, 76.02- 4.00	174985	69994	244979	349969
62	CTO, IV Circle, Kozhikode	32110954345	Sarasons Traders	2010-11	76939419	75087526	1851893	93.83- 12.50, 4.59- 4.00	222810	89124	311934	445620
63	CTO, Special Circle, Palakkad	32090217952	Future Retail Limited	2009-10	1158284563	986556122	171728441	39.15- 12.50, 51.84- 4.00	12084571	6283977	18368548	24169141
64	CTO, I Circle, Thiruvananthapuram	32010612952	Lord Krishna Associates	2011-12	67562795	63541205	4021590	1.32- 12.50, 98.68- 4.00	167030	46768	213798	334059
65	CTO, II Circle, Ernakulam	32071623592	The Mobilestore Limited	2010-11	293603077	284978640	8624437	100-4.00	348427	139371	487798	696855
66	CTO II Circle, Thiruvananthapuram	32010734542	Rams Electricals	2010-11	9946443	7006443	2940000	26.08- 12.50, 73.92- 4.00	184602	73841	258442	369203
67	CTO, III Circle, Ernakulam	32071771664	S S Marketing	2009-10	21072455	14576691	6495764	53.18- 12.50, 46.82- 4.00	558993	290676	849670	1117986
68	CTO, III Circle, Ernakulam	32071775624	Kay Kay Exports	2010-11	229683841	224134259	5549582	100-4.00	224203	89681	313884	448406
69	CTO, Special Circle, II, Ernakulam	32071753001	Neha Latha	2011-12	232960166	222735747	10224419	93.85- 12.50, 6.15- 4.00	1236850	346318	1583168	2473701
70	CTO, IV Circle, Ernakulam	32071885402	Western IT Distributors Sheeja	2009-10	311596461	303374858	8221603	2.92- 12.50, 97.08- 4.00	352763	183437	536199	705526

Sl. No	Office name	TIN	Dealer name	Year	Total sales accounted (₹)	Total turnover returned (₹)	Turnover escaped (₹)	Turnover-applicable tax rate (%)	Short levy including cess (₹)	Interest (₹)	Tax plus interest (₹)	Penalty (₹)
71	CTO, IV Circle, Ernakulam	32071885402	Western IT Distributors Sheeja	2010-11	362071270	352529668	9541602	1.83- 12.50, 98.17- 4.00	400471	160188	560660	800942
72	CTO, IV Circle, Ernakulam	32071893704	Malhotra Marketing Private Limited	2009-10	60611442	57490934	3120508	100-12.50	393964	204861	598825	787928
			TOTAL						149657111	71226618	220883733	299314221

Appendix - III (5)

(Ref: Paragraph 2.6.1)

Details of short levy of tax due to excess claim of input tax credit

Sl. No.	Name of office	TIN	Name of the dealer	Period of return	Purchase value (₹)	Rate of tax (%)	IPT eligible for set off (₹)	Input tax claimed (₹)	Excess input tax claimed (₹)	Cess (₹)	Interest (₹)	Total including tax, cess and interest (₹)	Penalty (₹)
1	CTO, Special Circle, Kannur	32120213984	Nikshnan Electronics	2008-09	422739035	12.50	52842379	60993360	8150981	81510	5268794	13501285	16464982
2	CTO, Special Circle, Kannur	32120568055	Popular Stores	2008-09	44178035	12.50	5522254	5874511	352257	3523	227699	583478	711558
3	CTO, Special Circle III, Ernakulam	32070491572	Traco Cable Co. Ltd.	2009-10	83433804	4.00	3337352	3494609	157257	1573	82591	241421	317659
4	CTO, Special Circle, Kottayam	32050571275	Standard Treads Private Ltd.	2008-09	2538823	4.00	101553	317348	215795	2158	139490	357443	435906
5	CTO, Special Circle, Kottayam	32050571275	Standard Treads Private Ltd.	2009-10	300280216	4.00	12011209	12420997	409788	4098	215221	629107	827772
6	CTO, Special Circle, Kottayam	32050235632	N.T Paul & Company	2009-10	3261175	4.00	130447	407154	276707	2767	145327	424801	558948
7	CTO, Special Circle, Thrissur	32080583992	Kalyan Silks Trichur (P) Ltd.	2008-09	112644248	4.00	4505770	6886400	2380630	23806	1538839	3943276	4808873
8	CTO, Special Circle, Thrissur	32080224835	Yamuna Roller Flour Mills	2009-10	231485329	1.00	2314853	2559741	244888	2449	128615	375952	494673
9	CTO, Special Circle, Alappuzha	32040269425	Popy Umbrella Mart	2008-09	20175542	4.00	807022	989298	182276	1823	117823	301922	368198
10	CTO, Special Circle, Alappuzha	32040888614	Wilton Weavers Pvt. Ltd.	2008-09	7461985	4.00	298479	417218	118739	1187	76753	196679	239852
11	CTO, Special Circle, Kollam	32021455274	Agasthiacode Rubber Traders	2009-10	139890265	4.00	5595611	5725658	130047	1300	68301	199649	262696
12	CTO, Special Circle II, Kozhikode	32111211712	Koroth Padmanabhan Co (Cement) Pvt. Ltd.	2010-11	166537065	12.50	20817133	22953463	2136330	21363	863077	3020770	4315386
13	CTO, I Circle, Palakkad	32090544573	Kakkassery Agencies	2009-10	15024788	12.50	1878099	2002439	124341	1243	65304	190888	251168
			Total						14880036	148800	8937834	23966671	30057671

Appendix - III (6)

(Ref: Paragraph 2.8.1)

Details of short payment of tax due to short reporting of interstate sales effected through checkposts

Sl. No.	Office Name	Dealer name/TIN	Year	Value of goods transported out through check posts	Turnover of goods transported out returned	Turnover short reported	Turnover-applicable tax rate	Tax due	Cess	Tax due including cess	Interest	Total tax cess and interest	Penalty
				₹	₹	₹	(%)	₹	₹	₹	₹	₹	₹
1	CTO, Special Circle, Kannur	Priya Associates 32121020204	2011-12	6915002	0	6915002	4.00	276600	2766	279366	78223	357589	558732
2	CTO, Special Circle, (Produce) Mattancherry	General Commodities Ltd 32150359506	2010-11	119595550	1704000	117891550	4.00	4715662	47157	4762819	1905128	6667947	9525638
3	CTO, Special Circle II, Ernakulam	Faras Info-techs Pvt. Ltd (owners of V.G. Saraf & Sons) 32070398894	2010-11	1184368	0	1184368	12.50	148046	1480	149526	59810	209336	299052
4	CTO, Special Circle III, Ernakulam	HT Foods Pvt. Ltd. 32070407275	2011-12	4075797	705716	3370081	4.00	134803	1348	136151	38122	174273	272302
5	CTO, Special Circle III, Ernakulam	Kerala Electrical and Allied Engineering Co. Ltd. - KEL 32070477925	2011-12	14036102	5367791	8668311	4.88 - 12.50, 95.12 - 4.00	382689	3827	386516	108224	494740	773031
6	CTO, Special Circle, Kottayam	Lakshmi Match Industries 32050257592	2011-12	15840855	13086557	2754298	4.00	110172	1102	111274	31157	142431	222547
7	CTO, Special Circle, Mattancherry	Bestwood Traders 32150725762	2011-12	62434235	58475729	3958506	18.80 - 12.50, 81.2 - 4.00	221597	2216	223813	62668	286481	447626
8	CTO, Special Circle, Mattancherry	Zahi Rubbers India Ltd. 32150730622	2010-11	27019624	3608242	23411382	4.00	936455	9365	945820	378328	1324148	1891640
9	CTO, Special Circle, Thrissur	Modern Sanitary 32080710565	2010-11	6216273	39794	6176479	96.72 - 12.50, 3.28 - 4.00	754840	7548	762388	304955	1067343	1524777

Sl. No.	Office Name	Dealer name/TIN	Year	Value of goods transported out through check posts	Turnover of goods transported returned	Turnover short reported	Turnover-applicable tax rate	Tax due	Cess	Tax due including cess	Interest	Total tax cess and interest	Penalty
				₹	₹	₹	(%)	₹	₹	₹	₹	₹	₹
10	CTO, Special Circle, Thrissur	Best Ready Mix Concrete 32080756904	2010-11	1966316	0	1966316	12.50	245790	2458	248248	99299	347547	496496
11	CTO, Special Circle, Thiruvananthapuram	Narmada Business Links (P) Limited 32010106364	2011-12	2212298	0	2212298	12.50	276537	2765	279302	78205	357507	558604
12	CTO, Special Circle, Thiruvananthapuram	Parthas 32010128864	2011-12	6470847	0	6470847	0.6 -12.50, 48.06- 4.00	129249	1292	130541	36552	167093	261082
13	CTO, Special Circle, Thiruvananthapuram	Marikar Engineers Private Ltd 32010131755	2011-12	20783091	0	20783091	12.50	2597886	25979	2623865	734682	3358548	5247730
14	CTO, Special Circle, Thiruvananthapuram	South Indian Federation Of Fishermen SOC 32010164864	2010-11	17277301	12972906	4304395	12.50	538049	5380	543429	217372	760801	1086858
15	CTO, Special Circle, Thiruvananthapuram	Bombay Rayon Fashions Ltd 32010185002	2010-11	136378710	100931182	35447528	4.00	1417901	14179	1432080	572832	2004912	2864160
16	CTO, Special Circle, Thiruvananthapuram	Nirmala Automobiles (P) Ltd. 32010194902	2010-11	884064	0	884064	12.50	110508	1105	111613	44645	156258	223226
17	CTO Special Circle, Thiruvananthapuram	Nirmala Automobiles (P) Ltd. 32010194902	2011-12	3557147	2247040	1310107	12.50	163763	1638	165401	46312	211713	330802
18	CTO, Special Circle, Thiruvananthapuram	JCT Motors 32010619015	2011-12	2250111	0	2250111	12.50	281264	2813	284077	79542	363619	568154
19	CTO, Special Circle, Thiruvananthapuram	New Chalai Agencies 32010874604	2010-11	2145524	0	2145524	12.50	268191	2682	270873	108349	379222	541746

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Sl. No.	Office Name	Dealer name/TIN	Year	Value of goods transported out through check posts	Turnover of goods transported out returned	Turnover short reported	Turnover-applicable tax rate	Tax due	Cess	Tax due including cess	Interest	Total tax cess and interest	Penalty
				₹	₹	₹	(%)	₹	₹	₹	₹	₹	₹
20	CTO, Special Circle, Thiruvananthapuram	New Chalai Agencies 32010874604	2011-12	5110385	3351834	1758551	12.50	219819	2198	222017	62165	284182	444034
21	CTO, Special Circle, Alappuzha	The Travancore Mat & Mattings Company 32040250132	2011-12	15297985	443072	14854913	6.12 -12.50, 79.42- 4.00	585551	5856	591407	165594	757001	1182814
22	CTO, Special Circle, Kollam	M/s. Chemmarathil Cashew Company 32020207536	2011-12	35323423	33005388	2318035	4.00	92721	927	93649	26222	119871	187298
23	CTO, Special I Circle, Kozhikode	Hindalco Industries Ltd 32110295501	2010-11	12032810	9237186	2795624	4.00	111825	1118	112943	45177	158120	225886
24	CTO, Special Circle II, Kozhikode	M.C. Traders. 32110917344	2010-11	2582992	0	2582992	4.00	103320	1033	104353	41741	146094	208706
25	CTO, Special Circle II, Kozhikode	M. Muhammed Nazeem 32111062222	2011-12	16803358	15516496	1286862	12.50	160858	1609	162467	45491	207958	324934
26	CTO, Special Circle, Palakkad	PKV Trading Company 32090281942	2011-12	3305760	0	3305760	4.00	132230	1322	133552	37395	170947	267104
27	CTO, III Circle, Thiruvananthapuram	Pure Petrochem India Pvt. Ltd 32010860902	2010-11	6060738	2594751	3465987	12.50	433248	4332	437580	175032	612612	875160
28	CTO, III Circle, Thiruvananthapuram	Al-Mela Shopping (P) Ltd 32010890995	2010-11	7575440	2527566	5047874	47.22 -12.50, 52.78- 4.00	404521	4045	408567	163427	571993	817134
		Total									5746649	21860286	32227273