

THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2014-2016)**

EIGHTY FOURTH REPORT
(Presented on 16th December, 2014)

62



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2014**

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EIGHTY FOURTH REPORT

On

**Action Taken by Government on the Recommendations contained in the
64th Report of the Committee on Public Accounts (2006-2008)**

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INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the 84th Report on Action Taken by Government on the Recommendations contained in the 64th Report of the Committee on Public Accounts (2006-2008).

The Committee considered and finalised this Report at the meeting held on 9th December, 2014.

Thiruvananthapuram,
16th December, 2014.

DR. T. M. THOMAS ISAAC,
Chairman,
Committee on Public Accounts.

REPORT

This Report deals with Action Taken by Government on the recommendations contained in the 64th Report of Committee on Public Accounts (2006-2008).

The Sixty fourth Report of the Committee on Public Accounts (2006-2008) was presented to the House on 15th July, 2008. The Report contained nine recommendations relating to Taxes Department and Government were addressed on 5-8-2008 to furnish the statement of Action Taken on the recommendations contained in the report and the final reply were received on 1st November 2012.

The Committee examined the Action Taken Statements at its meeting held on 22-9-2010, 15-5-2012 and on 17-7-2013.

The Committee was not satisfied with the replies furnished on para Nos. 14 and 16 and decided to pursue them further. These recommendations, Government replies and further recommendations of the committee are incorporated in Chapter I of this Report.

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

CHAPTER I

RECOMMENDATIONS IN RESPECT OF WHICH ACTION TAKEN BY GOVERNMENT ARE NOT SATISFACTORY AND WHICH REQUIRE REITERATION

TAXES DEPARTMENT

Recommendation

(Sl. No.4, Para No.14)

1.1 The Committee notes that report regarding re-assessment and collection pertaining to the subparagraphs from 1 to 11 have not been received. Hence the Committee demands the Department to forward a detailed report regarding the present position.

Action Taken

1.2 (1) *M/s Capex—1988-89 to 1989-90—AC (Asssmt.), Special Circle, Kollam*

The audit objection in this case is that while finalizing the assessment of M/s Capex, Kollam for the years 1988-89 and 1989-90 an aggregate purchase turnover of raw cashew amounting to ₹ 18952.10 lakh was excluded from tax without obtaining the declaration in Form 25. This resulted in non-levy of tax of ₹ 1258.52 lakh.

1988-89

Based on the audit, the assessment for 1988-89 was set aside and remitted back to the Asst. Commissioner (Assmt.), Special Circle, Kollam as per Order No. S 56880/99 dated 19-3-1999 of Deputy Commissioner, Kollam.

Accordingly the assessment was completed afresh on 5-11-1999. Out of the purchase turnover of raw cashew amounting to ₹ 91,10,74,900 the assessee produced declaration in Form 25 for a turnover of ₹ 26,26,43,400 and the balance turnover of ₹ 64,84,31,500 had been brought to assessment and the demand as per the revised assessment was advised for RR as per RRC No. 378/1999-2000 dated 31-1-2000. Aggrieved by the order, the assessee filed appeal before the D.C. (A), Kollam. The D.C. (A) vide his Order No. STA-4/2000 dated 23-2-2000 modified the assessment granting an opportunity to produce the Form No. 25 declaration for ₹ 64,84,31,500 with connected accounts before the assessing authority.

Accordingly the dealer produced the accounts with Form 25 declaration before the assessing authority and the assessment was modified in the light of the appellate order on 28-1-2001 giving exemption to the turnover of ₹ 64,84,36,900. Hence no loss of revenue.

1989-90

Based on the audit the assessment for 1989-90 was set aside and remitted back to the assessing authority for fresh disposal as per order No. S 56879/98 dated 19-3-1999 by the D.C., Kollam.

Accordingly fresh assessment for 1989-90 was completed on 5-11-1999. The assessee has produced Form No. 25 declarations for the turnover in respect of the local sales of cashew nuts amounting to ₹ 98,14,34,750 to processors in Kerala. Hence the amount had not been included in the taxable turnover. Hence no loss of revenue in this case.

(2) M/s Aluminium Industries Ltd.-AC (Asssmt.), Special Circle, Kollam-1991-92

The arrear amount of ₹ 41.31 lakh is pending collection under R.R.

(3) M/s Seema Cashew Traders-AC (Asssmt.), Special Circle, Kollam-1994-95

Assessment for the year 1994-95 had already been revised on the basis of Order No. STA 891/03 dated 4-8-2004 of the D.C. (Appeals), Kollam, by the Asst. Commissioner (Assmt.), Special Circle, Kollam on 25-10-2004. As per the revised order outstanding arrear is ₹ 3,55,496 (Tax ₹ 2,91,097 and S.C. ₹ 64,399) and the entire amount remitted as per Chalan No. 57 dated 28-3-2004.

(4) *M/s K. B. Vilasom, Cashew Co.—Special Circle, Kollam—1995-96*

The total demand for the year 1994-95 and 1995-96 was ₹ 1,771 and ₹ 2,01,067 respectively. The assessee preferred for Amnesty Scheme and remitted the entire amount as under.

₹ 1,01,420	..	Chalan No. 229/20-12-2008
₹ 50,710	..	Chalan No. 225/15-1-2009
₹ 50,710	..	Chalan No. 162/4-2-2009
Total		<u>₹ 2,02,840</u>

(5) *M/s Anjaneya Exports—1994-95, Special Circle, Kollam*

On the basis of the audit observation, the assessing authority has revised the assessment under section 19 vide order dated 7-2-2000. This order was set aside by the D.C. (Appeals), Kollam vide order No. STA 67/00 dated 18-7-2000. On the basis of the appellate directions, the assessing authority has again examined the case and the assessment was finalized afresh as per order dated 10-2-2003 as that of 'Nil' demand.

(6) *M/s Premier Cashew Industries—1994-95, Special Circle, Kollam*

In the light of the audit objection assessment revised under section 19 of the Act as per order dated 22-1-2000 and the entire amount collected as per Chalan No. 438 dated 30-3-2000.

(7) *M/s Maratt Plantations—1995-96, Special Circle, Tirur*

The Assessment was revised under section 19 of the KGST Act on 20-12-2000, demanding the balance tax ₹ 4,26,089 and ₹ 44,380. The assessee went in appeal against the order and the D.C. (Appeals), Kozhikode vide order No. STA 41/01 dated 6-2-2001 remanded the case for fresh disposal. The assessment was revised in tune with the direction of the D.C. (Appeals) and the assessee had cleared all dues relating to the year by remitting admitted tax of ₹ 2,93,200 and ₹ 29,320 (Total ₹ 3,22,520) as per Chalan No. 3605 dated 23-2-2001. No dues are outstanding now for the year in question.

(8) *M/s Kerala Acids and Chemicals—1989-90, CTO, Aluva*

In the light of audit assessment for the year 1989-90 was revised and advised for collection under RR on 10-11-2004. RR proceedings initiated against the assessee is returned by the Revenue Recovery Authority (Tahasildar North Paravur) with the

reason that the Company was closed and official liquidator appointed by the Honourable High Court of Kerala had taken over the immovable property belonged to the Company due to the other financial liabilities. Hence no tax amount has been collected in this case till date.

(9) *M/s Joy Mon Builders—1994-95, CTO (WC), Ernakulam*

The arrear ₹ 2,73,000 in respect of the assessee for 1994-95 is still pending collection from the dealer company CP No. 37 of 1998 was filed before the Hon'ble High Court of Kerala for winding up the Company. The Company's petition is still pending before the Hon'ble High Court of Kerala.

(10) *M/s Karottukuzhi Plastics—1994-95 and 1996-97, CTO, I Circle, Perumbavoor*

The final assessment for the year 1994-95 and 1996-97 has been revised under section 19 of the Act on 29-9-2000. Against these assessments the assessee filed appeal before the AAC, Ernakulam. The AAC has cancelled the revised assessment and the original assessment was restore vide STA 1720, 1721/00 dated 8-8-2001. Hence the tax and surcharge demanded as per the revised order has been given remission. There is no scope for second appeal in this case.

(11) *M/s United Handicrafts—1994-95, STO, Kasaragode*

In the light of audit assessment revised under section 19 of the KGST Act. The dealer preferred an appeal before the AAC, Kannur. The appeal was disposed of vide order No. STA 468/01 and 469/01 dated 31-7-2003 and 15-7-2004 directing the assessing, authority to accept the turnover as per the books of accounts produced by the dealer and to give exemption to the entire turnover as the dealer is eligible for exemption as per SRO 1727/93. The assessment was revised accordingly on 10-2-2005 and as per the revised order the original demand was reduce to ₹ 66 ST + ₹ 7 S.C. and this arrears are settled under Amnesty Scheme 2006, and no amount is pending to be paid by the dealer for the year 1994-95.

Further Recommendation

1.3 The Committee recommended that a vigilance enquiry should be conducted in the cases mentioned in the Statement of Action Taken including CAPEX where tax exemption was granted on subsequent filing of Form 25 after the inspection by Accountant General.

Recommendation

(Sl. No. 5, Para No.16)

1.4 The Committee finds that the assessment regarding M/s Malabar Cashew and Allied Products had been revised and advised for Revenue Recovery.

The Committee desires to be informed whether the additional demand created has been recovered.

Action Taken

1.5 *M/s Malabar Cashew and Allied Products--1991-92, Special Circle, Kollam*

Assessment revised on 29-10-2001 and RRC was issued on 11-12-2001 vide RRC No. 157/01-02 and at present the demand is under RR and no amount is collected till date.

Further Recommendation

1.6 The Committee recommended to speed up Revenue Recovery proceedings to collect the additional demand and report it to the Committee.

CHAPTER II

RECOMMENDATIONS WHICH THE COMMITTEE DOES NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES FURNISHED BY GOVERNMENT

Recommendation

(Sl. No. 1, Para No. 11)

2.1 The Committee notes that regarding the assessment and arrears in the collection of revenue, defects/lapses of the same nature is repeated by the assessing officers. Hence the committee desires to be informed of the corrective measures taken by the department to prevent recurrence of mistake in the assessment of tax in future.

Action Taken

2.2 The observation of the committee is noted. The reason for the persistence of irregularities is due to the very many changes in the KGST Act and Rules, issuance of various notifications on exemption and reduction of rate of tax year by year. The Value Added Tax Act has come into force in the state of Kerala with effect from 1-4-2005. There is no provision under the KVAT Act to grant exemptions as in the case of KGST Act, 1963. The Commodities which are exempted are included in the first schedule.

In the Monthly work review meeting as well as in the time of cursory inspection in the office, the controlling officers will enlighten the assessing authorities under their control about the provisions under the Act, 2003 and about the lapses/defects

in the assessment and collection of revenue that will come across their notices as well as through Audit. Also, strict directions are given to guard against such mistakes. Moreover the internal audit wing of the department has been strengthened by Constituting teams under the direct control of Deputy Commissioner (IA), with specific guidelines. The circular issued in this regard dated 5/2005 and 18/2005 are enclosed herewith.

Recommendation

(Sl. No. 2, Para No. 12)

2.3 The Committee finds that the internal audit wing of the Department had failed to detect the cases pointed out by audit which resulted in short levy of tax and surcharge. Hence the Committee desires to be furnished with a comparative statement regarding number of cases detected by the Internal Audit Wing of the Department and Accountant General's Audit and the number of cases rectified as a result of the audit.

Action Taken

2.4 Consequent on implementation of VAT, the separate Internal Audit Wing of the Department has been abolished with effect from 1-4-2005. Before that, although there was a separate Internal Audit Wing, the wing was not an efficient one as junior most personnel were posted in audit wing. Experienced hands were posted in assessment wing so as to complete all potential pending assessments and boost up collection of State revenue. Further, the connected files had been transferred to various offices on abolition of the Audit Wing. Hence it is practically difficult to furnish a comparative statement regarding the number of cases detected by the Internal Audit Wing of the Department and AG's Audit. At present, in order to conduct audit in the VAT circle offices, a team has been constituted in the Commissionerate. In the team, there are 3 Assistant Commissioners and 5 Commercial Tax officers. The team will be under the direct control of Deputy Commissioner (IA) who monitors the work of the team. In the circumstances, considering the difficulty in tracing out the details called for and also considering the fact that the audit work is being attended to in the ensuring periods, the objection may be dropped.

Recommendation

(Sl. No. 2, Para No. 13)

2.5 While examining Para 2.2, the Committee came to know that the reasons for the defects pointed out by the audit was due to laxity in producing subsequent

declaration in Form 25 regarding the purchase turnover. Hence the Committee urges the Department to take effective steps to prevent such lapses in future.

Action Taken

2.6 Under the KVAT Act there is no relevance to Form 25 Declaration as there is no provision to grant exemptions. But in the VAT regime, the limit for furnishing statutory forms viz., C, F, E1 and E11 has been limited to 3 months after the end of the period to which the declaration of certificate related. [Rule 12(7)] of CST (R&T) Rules.

Recommendation

(Sl. No. 6, Para No. 23)

2.7 Regarding Para 2.5.7 the Committee would like to be furnished with a detailed report of collection without further delay.

Action Taken

V. S. Jyothi Kumar, Arrack Dealer, Chavakkad—1992-93, CTO, Chavakkad

2.8 Based on the audit the assessment for 1992-93 was cancelled under section 35 of the KGST Act vide order No. R1. 6363/98 dated 21-1-1999 of the D.C., Thrissur. The assessment was completed afresh on 28-3-1999 and RR steps has been taken. But no amount has been collected. The RRC documents were sent to Palakkad District, since the assessee owns land assets in Palakkad District. No collection has been made in this case.

Recommendation

(Sl. No. 7, Para No. 28)

2.9 The Committee is satisfied by the action taken by the Department regarding Para 2.7.4. The Committee demands the Department to furnish the details regarding collection of dues in all other cases pointed out in audit.

Action Taken

2.7(1). Aluminium Industries—1995-96, Special Circle, Kollam

2.10 The assessment has been revised under section 19 on 20-10-2000 creating additional demand of ₹ 17.14 lakh and RRC issued vide 222/01 dated 23-1-2001.

No amount has been collected.

2.7(2) *Aluminium Industries—1990-91, Special Circle, Kollam*

The additional demand created is ₹ 2 lakh. The amount is advised for RR vide RRC No. 282/99-00 dated 11-10-1999. The assessee has not remitted the amount.

2.7(3) *M/s Sunit Enterprises—1995-96, CTO, Special Circle (P), Mattancherry*

Audit in this case is that while finalizing the assessment in respect of M/s Sunit Enterprises, Kochi for the year 1995-96, the balance tax due from them was computed after incorrectly giving credit of ₹ 3.42 lakh remitted by another assessee resulting in excess credit of ₹ 3.42 lakh.

M/s Sunit Trading Co., and M/s Geetha Enterprises are sister concerns of M/s Sunit Enterprises while giving credit to the remittance. M/s Sunit Enterprises into the assessment order for the year 1995-96, a sum of ₹ 2,85,418 paid by M/s Geetha Enterprises and ₹ 56,925 remitted by M/s Sunit Trading Co. (Total ₹ 3,42,343) was wrongly credited to the account of M/s Sunit Enterprises resulting in an excess credit to M/s Sunit Enterprises. The sister concerns M/s Geetha Enterprises has remitted ₹ 1,79,091 vide Chalan No. F11 dated 21-12-98, ₹ 61,428 vide Chalan No. C 20 dated 18-1-1999 and ₹ 24,899 vide Chalan No. C 28 dated 1-3-1998 (Total ₹ 2,85,418) and M/s Sunit Trading Co. has also paid ₹ 56,925. Hence there is no loss of revenue as pointed out by the audit.

2.7(5) *M/s Solar Solvent Extractions Ltd.,—1991-92, CTO, Chittur*

The dues for the year 1991-92 ₹ 2,92,825 (Tax), ₹ 25,165 (SC) and ₹ 1,02,487 (Penal Interest) was advised for RR and the entire amount collected under RR.

Chalan No. 1063 dated 31-3-2005	..	₹ 44,524
Chalan No. 1067 dated 31-3-2005	..	₹ 3,81,204
Total		<u>₹ 4,25,728</u>

Hence in this case entire amount was collected under RR.

2.7(6) *M/s Acqua System—CTO, I Circle, Kalamassery*

Based on the audit, the assessment for 1994-95 was revised under section 19(1) of the KGST Act. The order under section 19(1) was challenged before the AAC, Ernakulam and the AAC in Order No. STA 163/00 dated 5-7-2000 has modified the assessment. As per the modified assessment Order

dated 29-8-2001 the balance tax due was only ₹ 6,455 and SC ₹ 4,694. The final dues after considering the short credit was only ₹ 1,501.90 towards tax and ₹ 147 towards SC and the dealer remitted the amount vide chalan No. 4190 dated 15-2-2002. As there is no scope for appeal, no second appeal preferred against the appellate order.

2.7(7) *M/s Greaves Cotton and Co.—1993-94 A.C. (Assmt.), Special Circle II, Ernakulam*

Based on audit the assessment for the year 1993-94 was modified under section 43 of the KGST Act as per order dated 1-10-1999. Excess tax collected ₹ 1,39,056 is forfeited to Government as per modified order dated 31-12-2003 and no arrears outstanding in this case.

2.7(8) *M/s Williard India Ltd.—1993-94, Special Circle, Ernakulam*

The original assessment of the dealer for the year 1993-94 was completed on 25-7-1998. The assessee preferred appeal and the D.C. (Appeals), Ernakulam has remanded the case vide order STA 722/2000 dated 30-8-2000. Fresh assessment was completed on 28-11-2001. In the fresh assessment order credit was given excluding ₹ 1.37 lakh.

Recommendation

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

2.11 The Committee finds that in all the three cases, penalty and Revenue Recovery proceedings were initiated only after the observations made by Audit. The Committee opines that penalty should be imposed at the first stage itself. Hence the Committee recommends that the Department should take necessary steps to impose penalty as soon as tax evasion or such other irregularities are detected by the assessing officer.

Action Taken

2.12 Directions issued on 6-6-2011 by the Joint Commissioner (A&I) to all District Deputy Commissioners to impose penalty as and when irregularities were noticed.

Recommendation

(Sl. No. 9, Para No. 40)

2.13 The Committee would like to know whether the amount advised for Revenue Recovery has been realized.

Action Taken

M/s Metal and Allied Industries—1994-95, CTO, Chengannur

2.14 The assessment in respect of the assessee for the year 1994-95 has been modified in appeal. The assessment has been revised on 14-12-2001 as per Order No. STA 22 and 23/01 dated 31-10-2001 of the AAC, Alappuzha. No dues are outstanding against the firm for the year 1994-95.

Thiruvananthapuram,
16th December, 2014.

DR. T. M. THOMAS ISAAC,
Chairman,
Committee on Public Accounts.

APPENDIX

SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

<i>Sl. No.</i>	<i>Para No.</i>	<i>Department concerned</i>	<i>Conclusion/Recommendation</i>
1	1.3	Taxes	The Committee recommended that a vigilance enquiry should be conducted in the cases mentioned in the Statement of Action Taken including CAPEX where tax exemption was granted on subsequent filing of Form 25 after the inspection by Accountant General.
2	1.6	„	The Committee recommended to speed up Revenue Recovery proceedings to collect the additional demand and report it to the Committee.

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