

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2021-2023)**

**FORTIETH REPORT
(Presented On 10th August,2023)**



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2023**

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

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

FOURTIETH REPORT

On

Action Taken by Government on the Recommendations
contained in the Fifty Fourth Report of the Committee
on Public Accounts (2019-21)

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COMMITTEE ON PUBLIC ACCOUNTS

(2021-2023)

Composition

Chairman:

Shri Sunny Joseph.

Members:

Shri Manjalamkuzhi Ali

DR. K. T. Jaleel

Shri C. H. Kunhambu

Shri Mathew T. Thomas

Shri M. Rajagopalan

Shri M. V. Govindan Master

Shri P. S. Supal

Shri Thomas K. Thomas

Shri K. N. Unnikrishnan

Shri M. Vincent.

Legislature Secretariat:

Shri A. M. Basheer, Secretary

Shri P. S. Selvarajan , Joint Secretary

Shri Jomy K. Joseph, Deputy Secretary

Smt. Mable Antony, Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Fortieth Report on Action Taken by Government on the Recommendations contained in the Fifty Fourth Report of the Committee on Public Accounts (2019-21).

The Committee considered and finalised this Report at the meeting held on 26th July, 2023.

Thiruvananthapuram,
10th August, 2023.

SUNNY JOSEPH,
Chairman,
Committee on Public Accounts.

REPORT

This Report deals with the Action Taken by the Government on the recommendations contained in the 54th Report of the Committee on Public Accounts (2019-2021).

The 54th Report of the Committee on Public Accounts (2019-2021) was presented to the House on 4th July 2019. The Report contains two recommendations relating to Commercial Taxes Department. Government was addressed to furnish the statements of Action Taken on the recommendations contained in the Report on 22-7-2019 and the final reply was received on 3-5-2021.

The Committee examined the Statements of Action Taken at its meetings held on 26-7-2022 and 6-10-2022. The Committee approved the Statements of Action Taken on the recommendations and decided not to pursue further in the light of the replies furnished by the Government. These recommendations and Government replies are included in this Report.

Recommendation

(Sl. No.1, Para No. 16)

The Committee opined that finalization of assessment of agricultural income tax must be completed within the stipulated time frame. The Committee express its concern over the fact that several mistakes were occurred deliberately during the assessment of agricultural income tax. The Committee suspects that not mere inexperience of some officers caused mistakes but there may be deliberate omissions. The Committee urges the department that utmost care should be taken and strict adherence of provisions should be observed while assessing the agricultural income tax.

Action Taken

PAC has observed that the same accounts of incorrect assessments are being continued for years together due to the fact that officers are approaching the matters in an insignificant manner and are not vigilant in duties. With a view to avoid such mistakes in future various circular instructions have been issued to the assessing authorities and the common recurrent defects were bunched and forwarded to the assessing authorities for utilization.

Directions were issued to all officers to furnish reply to the Accountant General only through their controlling officers and the controlling officer shall examine the defects carefully with statutory provisions, circulars, notifications, judgments etc. to ensure what is furnished is correct as per law before approving the same.

Moreover, all earnest efforts had been taken to identify all the Audit paras and based on the amount involved and their distribution, office wise, district wise etc. MIS was prepared. Such lists were shared with the Deputy Commissioners and respective assessing authorities and monthly meeting were also conducted to facilitate actions in sustainable cases. Such system building measures and emphasizing utmost importance of CAG Audit among officers and continuous follow up has resulted into taking series of actions in all these cases. The Department has taken action in all the cases in which Accountant General has pointed out short levy, and make good the revenue loss occurred in acceptable cases.

Explanations were called for from the impugned officers and those who were not found genuine were recommended for disciplinary action, which was dropped after due consideration.

Copies of the circulars are enclosed herewith for kind reference.

Encl:

1. Circular No.20/2015 dated 29-7-2015 - Annexure I
2. Circular No.08/2016 dated 19-7-2016 - Annexure II
3. Circular No.12/2016 dated 10-8-2016 - Annexure III

Recommendation

(Sl. No.2, Para No. 17)

The Committee direct the State Goods and Services Taxes Department to furnish all the Remedial measures taken statements within the stipulated time for AG to prepare Memo of Important Points.

Action Taken

The State Goods and Services Taxes Department gives top most priority to the work related to Public Accounts Committee. Necessary action has been taken by the Department to furnish all the Remedial Measures Taken Statements within the stipulated time. Suitable directions in this regard have been issued to various sub-Offices. The Head Quarters regularly monitors such cases/ files.

Thiruvananthapuram,
10th August, 2023.

SUNNY JOSEPH,
Chairman,
Committee on Public Accounts.

No.E 25305/15//CT.

Office of the Commissioner,
Commercial Taxes,
Thiruvananthapuram,
Dated : 29.07.2015.

CIRCULAR NO. 20/2015

Sub: Reports of the C&AG – Effective utilization of recurrent defects in C&AG reports in assessment for revenue augmentation and reduction of number of paras in C&AG reports – Reg.

.....

The Public Accounts Committee has expressed serious concern over the recurrent defects included in the C&AG Reports during the last meeting held on February 2015. It is the fact that almost all the defects are rectified by the assessing authorities by completing the assessment in line with the audit queries. This underlined the serious lapses/ignorance on the part of the assessing authorities in daily scrutiny of assessment records/system based scrutiny. In the circumstances the recurrent defects contained in the C&AG reports are bunched below for the strict utilization in avoiding recurrence of such short levy in assessments.

1. Absence of cross verification of external data such as information obtained from Controller General of Patents and Trade Marks, Customs Department with the returns of the dealer .
2. Not checking the turnover difference between audited accounts and returns.
3. Misclassification of the items such as margarine, soap/safety matches (machine made & hand made), digital printers (Margarine taxable @ 14.5% - Entry 64(8) of notified list of SRO No.82/2006, Soap – Detergent – is taxable @ 14.5% as per entry 27 of notified list of SRO 82/06, safety matches - machine made - taxable @ 5% as per entry 110 of 3rd schedule to KVAT Act, Digital printer is taxable @ 14.5%)
4. Irregular claim of exemption in the guise of works contract in erection of airconditioners, plant & machinery, motor bodies on chassis of motor vehicles, tyre retreading etc.
5. Escapement of turnover due to non reckoning of income received due to price variation, royalty, video rights, warranty charges, DEPB licence etc.
6. Irregular claim of input tax and turnover escapement in cases of discount received (sec 11 of KVAT Act).
7. Turnover escapement due to direct expenses such as transporting charge. 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 sales consideration Expn.III(i) to sec.2(III) of KVAT Act 2003.
8. Application of incorrect rate of tax in case of works contractors who have cancelled CST registration in violation of provision under section 7(5) of CST Act.
9. Irregular claim of IPT/special rebate in stock transfer/exempted transfer of rubber goods (out)/sale on subsidy/ sales to SEZ/ damaged goods/ sale of 1st schedule goods/ compounding etc.
10. Irregular grant of compounding in cases coming under negative list viz. electrical contracts, refrigeration and airconditioning contracts etc.

11. Incorrect computation of compounded tax of metal crusher units where the actual size and number of machines are concealed.
12. Incorrect computation of compounded tax in case of hotels/ bar and gold dealers (sec.8 of KVAT Act).
13. Omission of levy of surcharge under section 3(1A) of Surcharge Act.
14. In works contract the taxable turnover arrived under Rule 10(2)(a) of KVAT Rules is less than the cost of goods transferred in the execution of works contract then the taxable turnover will be cost of goods transferred together with the profit.
15. Turnover escapment detected from check post details in KVATIS.
16. Payment made by the dealer incorrectly appropriates first towards the principal outstanding instead of the interest (sec.91 of KVAT Act, sec.55(c) of KGST Act).
17. Medicine dealer availed irregular exemption for sales turnover of medicine out of interstate purchase (sec.8 of the KVAT Act).
18. IPT availed in excess of actual due in lieu of computing error, purchase return misclassification etc.
19. Incorrect compounding rate of Govt. Contractors holding CST registration @ 4% instead of 5%.
20. Special rebate availed in excess of 6(2) purchase tax paid.
21. Fixed asset sales turnover is omitted to include in the return.
22. Compounded works contractor dealer failed to remit the 6(2) tax due.
23. Sales turnover conceded is less than stock transfer receipt.
24. Consignment sales turnover is not conceded but consignment commission is shown in the P&L Account.
25. Lease rent received is not assessed as transfer of right to use envisaged u/s 6(1)(c) of the KVAT Act.
26. Turnover difference between return and purchase/ sales statement uploaded in KVATIS.
27. No proof for purchase/ sales return.
28. Under valuation of rubber/cashew based on the price rate of Rubber Board/ Cashew Development Board.
29. Sale price conceded is less than that reckoned for advance tax.
30. In works contract, transfer of goods involved in execution of works contract, where the transfer not in the form of goods but in some other form is assessed @ 5% instead of the correct rate @ 14.5%.
31. Interstate purchase/ stock transfer conceded is less than as per the issue register of C/F forms submitted by the assessee to the department.
32. Dealer in motor vehicles conceded the turnover of motor vehicles as used vehicles.
33. Excise duty is not taken as the part of sales turnover (sec.2(div)).
34. IPT availed on purchase of building materials and fixtures used in construction activity as capital goods. (SRO 324/05)

35. Freshly compounded dealer is not reversing the IPT taken in the previous year for the purchase of goods held as stock at the end of the previous year.

All assessing authorities of the department are directed to examine the above aspects meticulously while scrutinizing the returns/ records and utilize the same in assessment if warranted.

All supervisory officers are directed to ensure that the instructions are scrupulously followed by the officers.

Sd/-

COMMISSIONER

To

All concerned.

No. E1-23012/16/CT.

Office of the Commissioner,
Commercial Taxes,
Thiruvananthapuram,
Dated : 19.07.2016.

Circular No. 08 /2016

Sub:- Speedy Settlement of Audit Objections – Standing instructions – Re-issued -

During the section meeting held on 14.07.2016, by the Commissioner of Commercial Taxes, it came to notice that several officers are not fully aware of the procedure to be followed for dealing with settlement of audit objections in inspection reports from the Accountant General's office. In the circumstances the following instructions are issued to all the officers concerned for strict adherence.

1. The officers shall examine the defects pointed out by AG with reference to the relevant assessment records and ascertain the sustainability of defects. If the defect pointed out is sustainable appropriate action shall be initiated to set right the short levy pointed out. The assessing authorities shall complete the assessment in such cases and collect the demand at the earliest. If assessment is completed in line with the AG's query, furnish the assessment details in the reply such as order No., date, addl. demand created, if any, collection thereon, the amount collected with chalan No./date etc.
2. If for any reason addl. demand created is less than the short levy pointed out in the audit, furnish the reason for the same.
3. If the defect pointed out is not sustainable a detailed discussion or opinion from next higher authority is very necessary before furnishing the reply. The reply shall be approved by the controlling officer in such cases and furnish the factual report with the proof of evidence if needed.
4. Reply to audit enquiry/audit objection shall be furnished to the audit party before the conclusion of the audit in that office. If more time is required for furnishing reply, an interim reply shall be given with detailed remarks as to the action taken/reasons relied on.
5. In case of sustainable defects pointed out, the officers shall identify similar defects in the same file for subsequent & previous years and take action simultaneously.
6. The officers shall identify similar defects in similar files and take appropriate action so that recurring defects can be avoided.
7. Reply should contain LAR para No., assessee's name, assessment year, defect in brief and then answer to the query.
8. If the reply furnished by the auditee officer to the Accountant General is not convincing and the AG has included that defect in the LAR, further reply to AG shall be furnished through their controlling officers, marking a copy to Joint Commissioner (A&I) without any delay.

9. The controlling officer shall examine the defects carefully with statutory provisions, circulars, notifications, judgment etc and ensure that the reply furnished is correct as per law and approve the same.
10. It is the duty of the controlling officers (Inspecting Assistant Commissioners and Deputy Commissioners) to ensure that proper action has been taken by the assessing authorities to settle the defects without any delay.
11. An action taken statement shall be forwarded to CCT every month on pending LAR paras.
12. The time limit for furnishing first reply to LAR paras is 4 weeks from the date of receipt of LAR, and time limit shall be strictly adhered to.
13. It shall be the primary responsibility of the officers in charge of the file for ensuring prompt attention to the audit objections. The controlling officers shall be responsible to keep a close watch on the clearance of all audit objections in the inspection reports under their jurisdiction.
14. The Deputy Commissioner shall examine the sustainability of audit objection in detail and take suitable remedial measures immediately. The Deputy Commissioners shall also examine whether the irregularity committed was due to the negligence/lapse on the part of the officer and shall report the same to the CCT for taking disciplinary action.

Sd/-
COMMISSIONER

To

All concerned.

// Approved for issue //


Joint Commissioner (A&I)

No. E1-1915/2016/CT.

Office of the Commissioner,
Commercial Taxes,
Thiruvananthapuram,
Dated: 16.06.2016.

CIRCULAR No. 12/2016

Sub: Lapses pointed out in audit – remedial measures to avoid recurrence of defects.

The Committee on Public Accounts in its various reports opined that same mistakes which the audit pointed out in earlier reports are repeated year by year. Repeated occurrence of such short assessments in the same files for years together could indicate possible malafide to extend undue favour to those dealers. The Committee on Public Accounts express its displeasure over the inertia exhibited by the officials in not taking timely action on cases pointed by audit and recommends that responsibility shall be fixed in those cases.

Based on the above PAC observations, the following instructions are issued:

1. It is observed that the same accounts of incorrect assessments are being continue for years together due to the fact that the officers are approaching the matters in an insignificant manner and are not vigilant in duties. With a view of avoid such mistakes in future various circular instructions have been issued to the assessing authorities and the common recurrent defects were lunched and forwarded to the assessing authorities of utilization. The controlling officers are directed to submit monthly report of recurrence of defects of IAR, draft note and draft para in the proforma attached.
2. In spite of the specific directions the assessing authorities and controlling officers have not adhered to the instructions and the matter is of serious concern which need to be sorted out. In case of sustainable defects pointed out, the officers shall identify similar defects in the same file for subsequent & previous years and take action simultaneously.
3. The officers shall identify similar defects in similar files and take appropriate action so that recurring defects can be avoided.
4. There is need to improve supervision by IAC and Deputy Commissioner, by ensuring that mistakes pointed by AG are not repeated in the same files as well as the similar files.

File

5. All Deputy Commissioners and Inspecting Assistant Commissioners are requested to analyse the defects / irregularities pointed out in audit by Accountant General and ensure that disciplinary action in cases where major irregularities leading to loss of revenue have been noticed are brought to the notice of higher authorities.

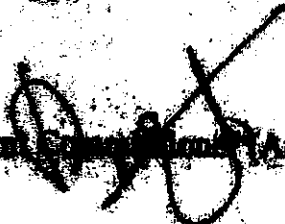
Sd/-

COMMISSIONER

To

All concerned.

// Approved for issue //


Joint Secretary (A&D)

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11/11/20