

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2016-2019)**

ELEVENTH REPORT
(Presented on 7th February, 2018)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2018

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

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On

**Paragraphs relating to Commercial Taxes Department contained in the
Report of The Comptroller and Auditor General of India for the year
ended 31 March 2011 (Revenue Receipts)**

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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 11th Report on paragraphs relating to Commercial Taxes Department contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts).

The Reports of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts) was laid on the Table of the House on 6th March, 2012.

The Committee considered and finalised this Report at the meeting held on 30-1-2018.

The Committee place on record their appreciation of the assistance rendered to them by the Accountant General in the examination of the Audit Report.

Thiruvananthapuram,
30th January, 2018.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

REPORT

DEPARTMENT OF COMMERCIAL TAXES

Tax administration

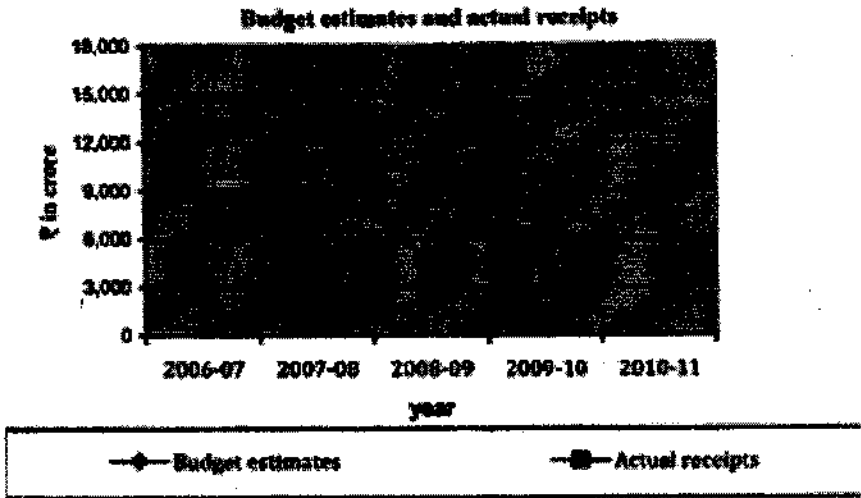
The Commercial Taxes Department contributes a major part of the revenue of the State. The revenue is derived from the assessment and collection of different taxes like sales tax, value added tax and central sales tax which are regulated by the Kerala General Sales Tax Act, 1963, the Kerala Value Added Tax Act, 2003, the Central Sales Tax Act, 1956 and notifications issued by the Department from time to time. The Department is under the administrative control of the Secretary to Government, Taxes. The Commissioner of Commercial Taxes administers the Acts and Rules. He is assisted by Joint Commissioners, Dy. Commissioners, Asst. Commissioners and Commercial Tax Officers. The assessment, levy and collection of tax is done by Assistant Commissioners and Commercial Tax Officers.

Trend of receipts

Actual receipts from VAT/tax on sales, trade etc. during the last five years (2006-07 to 2010-11) along with the budget estimates during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget Estimates	Actual receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts	Percentage of growth rate
2006-07	7,930.38	8,563.31	(+) 633.93	(+) 7.98	11,941.82	71.71	21.67
2007-08	10,035.51	9,371.76	(-) 663.75	(-) 6.61	13,668.95	68.56	9.44
2008-09	10,616.39	11,377.13	(+) 760.74	(+) 7.17	15,990.18	71.15	21.39
2009-10	12,733.94	12,770.89	(+) 36.95	(+)0.29	17,625.02	72.46	12.25
2010-11	15,125.69	15,833.11	(+) 707.42	(+)4.67	21,721.69	72.89	23.97



We noticed that the Department was able to achieve a healthy growth rate of 23.97 per cent, the highest in the last five years, during 2010-11.

Assessee profile

The number of dealers registered at the end of 2008-09, 2009-10 and 2010-11 is shown below:

2008-09	1,59,207
2009-10	1,59,665
2010-11	1,69,298

We noticed significant increase (9,633) in the number of dealers during 2010-11. The VAT collection from the top 50 dealers in the State was ₹4,610.75 crore which was 29.12 per cent of the total collection. Out of the total dealers, 24,712 dealers constituting 14.60 per cent were paying tax at 0.5 per cent under the category of presumptive tax payers.

Tax collection from KGST during 2010-11 was ₹ 7,402.07 crore as per the Finance Accounts prepared by the Accountant General (A&E). However, our analysis revealed that tax as per the returns filed by five major dealers alone was ₹ 7,368.45 crore and the month wise collection under the KGST recorded by the Department was ₹ 7,243.64 crore. Hence, the Department may reconcile the figures and rectify the difference.

Receipt of VAT per assessee

The receipt of VAT/sales tax per assessee during 2010-11 was ₹ 9.15 lakh, which was higher than the previous year's receipt of ₹ 7.79 lakh by ₹ 1.36 lakh.

Arrears in sales tax assessments

The Department furnished the position of arrears of assessment under sales tax which is as shown below:

Opening balance	9,267
Addition during 2010-11 including remanded cases	3,826
Total	13,093
No of assessments completed	6,947
Arrear cases - 6,155	
Current cases - 512	
Remanded cases - 280	
Closing balance	6,146

The Department completed 6,947 assessments under the KGST which was 53.05 per cent of the assessments due for finalisation.

We recommend the Government to complete assessments of the remaining cases in a time bound manner.

[Audit paragraphs 2.1 to 2.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2011 (Revenue Receipts).

Notes furnished by the Government on the above audit paragraph is included as Appendix II]

While seeking explanation regarding the reason for variation in the figures exposed by the Audit and the reason for non-reconciliation, the witness, Commissioner of Commercial Taxes deposed that since the oil companies contributed towards CST and VAT also in addition to KGST and it would be reconciled accurately by taking into account the amount under CST & VAT. In this context an official from the office of the Accountant General pointed out that there was difference in figures as total receipts as per the returns filed by 5 major dealers, constitute ₹ 7368.45 crore and as per the records produced by the department at the Audit total amount towards KGST as per all assessment was ₹ 7243.64 crore and this was not reconciled, the witness, Commissioner of Commercial Taxes replied that a detailed reply should be furnished to the Committee after studying the case properly. The Committee accepted the explanation furnished by the department.

2. Regarding the audit observations about the increase in VAT/Sales tax per assessee during 2010-11, the department deposed that there was a steady increase (10%) in receipt of VAT/Sales Tax per assessee and the Committee accepted the explanation.

3. When the committee sought the present position regarding KGST assessments the witness, Commissioner of Commercial Taxes Department replied that about 48 cases of Pre-VAT period (2004-05) were pending, and most of them were subjudice in nature. He also supplemented that out of the latest 1176 cases 753 belonged to the period of 2013-2014. To a query of the Committee, that how much money had to be realised, related to pre-VAT period the witness replied that it could be ascertained only after completing the assessment process. Regarding the disciplinary action, initiated against the least performed officers the Committee was informed that the officers who were placed under suspension had been reinstated to the service but disciplinary action has been pending. Then the Committee appreciated the department for settling as much as 40000 tax assessment cases in a record time and termed it as the commendable achievement of the department.

Conclusions/Recommendation

4. The Committee directs the Taxes Department for conducting immediate reconciliation of KGST, CST and VAT returns from the assesseees to rectify the variations in tax figures.

Cost of Collection

The gross collection of revenue receipts under the head, tax on sales, trade etc., expenditure incurred on collection and the percentage of expenditure to gross collection during 2006-07 to 2010-11 along with the all India average percentage of expenditure on collection to gross collection for relevant years are mentioned below:

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage over the previous year
	(` in crore)			
2006-07	8,563.31	78.21	0.91	0.91
2007-08	9,371.76	89.75	0.96	0.82
2008-09	11,377.13	102.59	0.90	0.83
2009-10	12,770.89	126.01	0.99	0.88
2010-11	15,833.11	115.61	0.73	0.96

Source: Finance Accounts and Departmental figures.

We are glad to note that the Department had reduced the cost of collection by 8.25 per cent during 2010-11.

Analysis of collection

Tax revenue collected on tax on sales, trade etc. during the last two years as recorded in the books of the Accountant General (A&E) Kerala is given below:

(` in crore)

Revenue head	2008-09	2009-10	2010-11
Sales Tax	5,881.97	5,212.92	7,402.07
VAT	5,035.19	7,235.26	8,097.15
CST	425.38	292.94	310.42

The above table indicates that during 2010-11 collection of sales tax increased by ₹ 2189.15 crore and VAT collection by ₹ 861.89 crore. We observed that the significant increase of 41.99 per cent under Sales tax was due to steady increase in the price of petroleum products during 2010-11.

[Audit paragraphs 2.6 to 2.7 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2011 (Revenue Receipts).

Notes furnished by the Government on the above audit paragraph is included as Appendix II]

5. As the witness, deposed that the cost of collection recorded in the years 2010-2011, and 2012-2013 were lower than the national average, but in 2011-12, it was a little bit more than national level. The Committee approved the explanation submitted by the department.

6. Taking into account of the audit observation on the analysis of tax collection made by the Accountant General, the Committee opined that four factors viz, turn over, rate of tax, inflation and efficiency administration, hugely affects the tax collection. Then the Committee decided to recommend the Taxes Department that a statistical analysis should be done regarding the individual contribution of the above mentioned four factors.

Conclusion/Recommendation

7. The Committee directs the Taxes department to conduct a factor/statistical analysis regarding the individual contribution of the factors such as Turn over, Rate of tax, Inflation and Efficiency Administration on tax collection and to report thereon at the earliest.

Impact of audit

Revenue impact

During the last four years, we pointed out non/short levy, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax etc., with revenue implication of ₹ 2,520.43 crore in 8,692 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 1,200.30 crore and had since recovered ₹ 20.06 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2006-07	1,004	309.17	179	250.50	108	3.18
2007-08	1,055	334.37	299	241.50	181	2.46
2008-09 Vol I	2,181	459.11	341	32.77	203	9.40
2008-09 Vol II	1	295.24	1	116.93	-	-
2009-10	4,451	1,122.54	657	558.60	588	5.02
Total	8,692	2,520.43	1,477	1200.30	1,080	20.06

The recovery position as compared to the accepted cases during the last four years was very low being only 1.67 per cent. The insignificant recovery of ₹ 20.06 crore against the money value of ₹ 1,200.30 crore relating to the accepted cases during the period 2006-07 to 2009-10 highlights the failure of the Department in recovering the Government dues promptly even in respect of cases accepted by them.

[Audit paragraphs 2.8 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2011 (Revenue Receipts).

Notes furnished by the Government on the above audit paragraph is included as Appendix II]

8. Considering the audit observation that the Taxes Department failed to recover Government dues promptly even in the accepted cases, the Committee noticed that ₹ 3.18 crore and ₹ 2.46 crore have only been realised against the targeted amount of ₹ 250.50 crore and ₹ 241.50 crores respectively in the years 2006-07 and 2007-08, and committee asked the reason for the marginal difference between the accepted and collected amount, the witness, Commissioner of Commercial Taxes Department informed that the major portion of the realisation was done by means of Revenue recovery proceedings which were carried out by Revenue Department and many cases were under court stay. So realisation of tax was not so easy. But the Inspecting Assistant Commissioners of the Department had been collecting 50% above of the target assigned to them. The Committee expressed its anxiety and grave

concern over the fact that only five percent of the cases pointed out by Audit had been realised so far and the balance ninety five percent remains non collected. The Principal Secretary, Taxes Department detailed the practical difficulties for the speedy enforcement of revenue recovery proceedings. At this juncture, the Committee, directed the Taxes Department that the records should be kept with regard to the reasons explaining the delay involved in the effort to collect tax and recommended that stringent action must be initiated to expedite the revenue recovery proceedings by the department. The witness, Principal Secretary, Taxes Department agreed to do so.

Conclusions/Recommendation

9. The Committee admonishes the officials of the Taxes department for their indolent attitude in realising arrears even in accepted cases and the Committee directs that the department should take stringent action to expedite the revenue recovery proceedings.

Working of internal audit wing

The internal audit wing (IAW) in the Commercial Taxes Department commenced functioning from 1 June 2009. The wing is headed by a Deputy Commissioner, three Assistant Commissioners and six Commercial Tax Officers. During the year 2010-11, against the target of 132 units 22 units were audited leaving 110 units in arrears. The Department attributed the arrears to the ceiling fixed on Travelling Allowance to Audit Officers. There were 53 IRs with 755 observations involving ₹ 80.94 crore outstanding (October 2011). Further, during 2009-10 and 2010-11 there was no clearance of observations by settlement which indicated poor response to the observations of IAW. The Department has not prepared a separate internal audit manual.

[Audit paragraphs 2.9 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2011 (Revenue Receipts).

Notes furnished by the Government on the above audit paragraph is included as Appendix II]

10. With regard to the audit observation that the functioning of internal audit wing in the Commercial Taxes Department was flimsy, the Committee enquired the reason for non clearance of observation made by internal audit wing, the witness, Commissioner of

Commercial Taxes replied that even though the department was handicapped with scanty staff strength over the years, there was a significant increase in their performance. He also detailed that they made about 1,333 audit observation in the year 2013-14 which involved ₹ 16.75 crore and 3066 audit observation in four years contained about ₹62 crores. To a query of the Committee he also clarified that both the Audit and Internal Audit Wing (IAW) in the department is not one and the same and Audit Assessment Wing in the department has constituted by incorporating the personal of the Internal audit wing. The Committee opined that the IAW of the department could function more effectively than the audit wing and recommended that the Internal Audit Wing should be strengthened by providing adequate staff. The Committee also necessitated the importance of implementing AG report in this regard and directed that KVATIS module should be re-checked. Responding to this, the witness, Principal Secretary, Taxes Department informed that the server capacity of the department need to be enhanced so as to meet the requirements. In this context, Committee directed that, the response of the department on the A.G. report on KVAT should be prepared point by point giving supreme priority and opined that it would definitely be a helping hand to the Government, in terms of revenue collection. Endorsing the observation pointed out by the Committee, the witness Principal Secretary, Taxes Department informed that the discussions were already held with the Accountant General in this regard, and the department was contemplating the formulation of a module enabling transfer of audit observations directly from the Office of the Accountant General to the concerned offices. He also emphasized the need for strengthening the internal audit wing in the department and insisted for creating requisite number of posts for the smooth and efficient functioning of the internal audit wing in the department. In this regard an official from the Office of the Accountant General informed that none of the objection raised by IAW was cleared during the last two years. The Committee reiterated its earlier comment that the internal audit wing in the Taxes Department should be strengthened.

Conclusion/Recommendation

11. The Committee observed that none of the observation of Internal Audit Wing during 2009-10 and 2010-11 had not been cleared by the assessment wing. The committee opines that, the internal audit wing of the Taxes department need to function more effectively

Therefore, it recommends that the internal audit wing should be strengthened by providing adequate staff and directs the department to expedite actions to clear out the objections raised by the Audit within limited time frame.

Results of audit

In 2010-11, we test checked the records of 205 units relating to KGST and VAT. We detected underassessment of tax and other irregularities involving ₹ 944.66 crore in 3,152 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Compounding Scheme in Commercial Taxes Department (A review)	1	38.35
2	Utilisation of declaration forms in inter-state trade (A review)	1	326.27
Value Added Tax			
3	Turnover escaping assessment	878	156.51
4	Grant of irregular exemption	392	46.32
5	Application of incorrect rate of tax	258	71.44
6	Grant of excess input tax credit	550	20.74
7	Incorrect grant of concessional rate of tax	23	0.51
8	Non/short levy of interest	16	0.20
9	Other lapses	1,033	284.32
Total		3,152	944.66

The Department accepted underassessment and other deficiencies of ₹ 66.22 crore in 750 cases, of which 332 cases involving ₹ 50.94 crore were pointed out in audit during the year 2010-11 and the rest in earlier years. An amount of ₹15.70 crore was realised in 522 cases of which 216 cases involving ₹ 2.44 crore were pointed out during the year 2010-11.

Two reviews on "Compounding Scheme in Commercial Taxes Department" and "Utilisation of declaration forms in inter-state trade" with financial impacts of ₹ 38.35 crore and ₹ 326.27 crore and a few illustrative audit observations involving ₹ 85.03 crore are mentioned in the following paragraphs.

Introduction

The Kerala Value Added Tax Act, 2003 (KVAT), Kerala General Sales Tax Act, 1963 (KGST), Central Sales Tax Act, 1956 (CST) and the rules made thereunder govern the levy and collection of tax on sale or purchase of goods in the State.

During the KGST period, dealers in certain evasion prone commodities like jewellery, work contract, cooked food etc., were permitted to pay tax at compounded rates. This was a simplified procedure under which tax was not related to the turnover of the dealer for the assessment year. The tax payable under the compounding scheme was less than the tax payable under the regular scheme and was attractive to the dealers and hassle free. The Government's intention was to attract more dealers into the tax net.

While introducing the KVAT Act in 2005, a scheme was included under Section 8 for dealers in works contract, metal crusher units, cooked food, video cassette, medicine and jewellery. Similarly, dealers liable to pay turnover tax on sale of IMFL under Section 5(2C) of the KGST Act were given an option to pay tax at compounded rates based on the purchase value of liquor from 1 April 2005. This was called the Compounding Scheme.

Organisational setup

The Principal Secretary to Government (Taxes) heads the Department at the Government level and Commissioner is in charge of the Department at the Department level. The levy and collection of tax under the KVAT Act, 2003, the KGST Act 1963 and CST Act, 1956 is administered by the Commissioner of Commercial Taxes with the assistance of Joint Commissioners, Deputy Commissioners and Inspecting Assistant Commissioners. Assistant Commissioners (Assessment) and Commercial Tax Officers are delegated with powers for assessment, levy and collection.

Audit objectives

We conducted the review to:

- examine efficiency and effectiveness of the compounding scheme in achieving the intention of its introduction.
- see the extent of compliance with the prescribed rules and procedures, and
- identify potential risk areas leading to leakage of revenue.

Scope and methodology of audit

We conducted the review during the period from December 2010 to May 2011 and test checked the assessment records for the years 2005-06 to 2009-10 of dealers who had opted for compounding in 32 assessment circles out of 102 assessment circles spread over nine revenue districts. We selected the samples by simple random number sampling method and collected details of import of gold from Customs house, Air cargo complex, Cochin International Airport at Nedumbassery and cross verified it with the assessment records of respective importers.

We also test checked the registers and records maintained in Commissionerate of Commercial Taxes as well as in selected Commercial Taxes assessment circles in the selected districts pertaining to dealers paying tax under the compounding scheme and also cross checked the data gathered from other sources ie. Customs house, KVATIS and TINXYS.

Acknowledgment

We acknowledge the co-operation extended by the Commercial Taxes Department, Customs house and Air Cargo complex. We conducted an entry meeting on 24th January, 2011 with the Secretary to the Government and explained the modalities of audit. The views expressed by the Secretary and the Commissioner of Commercial Taxes were taken care of. We conducted an exit conference on 13th June, 2011 with the Secretary (Taxes) and explained the important audit findings. The views of the Department at the time of exit conference and their responses to our queries/observations have been incorporated in the report.

1 Emakulam, Kollam, Kottayam, Kozhikode, Malappuram, Palakkad, Pathanamthitta, Thiruvananthapuram and Thrissur.

AUDIT FINDINGS

Trend of revenue

The following are the details of budget estimate and actual receipt of the Commercial Taxes Department during the period 2005-06 to 2009-10.

(₹ in crore)

Year	Budget estimates	Actual receipt	Percentage of actual collection to budget estimates
2005-06	8,200.01	7,037.97	85.83
2006-07	7,930.38	8,563.31	107.98
2007-08	10,035.51	9,371.76	93.39
2008-09	10,616.39	11,377.13	107.17
2009-10	12,733.96	12,770.89	100.29

The following are the details of revenue realised under the compounding scheme:

(₹ in crore)

Commodity	2005-06	2006-07	2007-08	2008-09	2009-10
Gold	NA	47.24	60.83	83.94	112.21
Metal Crusher	#	#	13.45	20.19	21.98
IMFL	#	48.26	66.03	96.44	120.51

details though called for were not furnished by the Department

The Commissioner of Commercial Taxes stated that details of works contract, medicine, video cassette and cooked food are not readily available.

The intention behind the introduction of Compounding Scheme was to bring more dealers under the tax net and thereby enhance revenue collection. But we found that the Department did not maintain a database of dealers who had opted for compounding. Hence,

the Department was unable to evaluate whether they were able to attract more dealers into the tax net. Further, targets were not fixed for enlisting dealers and collection of tax. Due to these reasons the Department was unable to clearly assess the impact of the scheme and modify it for further improvement.

We recommend that the Government may develop a database of dealers who opt for compounding, to fix a target for collection of tax under the scheme and analyse the data in a scientific manner to refine the scheme.

[Audit paragraphs 2.10 to 2.11.6 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March, 2011 (Revenue Receipts).

Notes furnished by the Government on the above audit paragraph is included as Appendix II

12. With regard to the audit observation, the Committee asked the reason for non-existence of a system to watch the revenue realized under compounding scheme category wise, the witness, Commissioner of Commercial Taxes Department informed that compounding has been done through KVATIS at present. In this context the Committee remarked that necessary modifications should be done in the KVATIS to generate the category wise details of revenue realised (Compounded and non compounded).

Conclusions/Recommendations

13. The Committee observes with concern that, non-maintenance of database of dealers who opt for compounding and notification of targets for enlisted dealers and collection of tax disabled the department to clearly assess the impact of compounding scheme. Therefore the Committee recommends that necessary modifications should be made in the KVATIS to generate category wise details of revenue realised under compounding as well as non compounding schemes.

WORKS CONTRACT

Incorrect grant of permission to pay compounded tax

Section 8 (a) of the KVAT Act, 2003 gives an option to a works contractor to pay tax at the rate prescribed thereunder on the whole contract receipt instead of paying tax in accordance with the provisions of section 6 of the Act. Under Rule 11 of the KVAT Rule

2005, the contractor is required to file an application in Form IDA along with a copy of agreement executed with the awarder of the contract and the work schedule for availing the benefit of the scheme. Further, Rule 24B stipulates that contractors who undertake construction or development of flats etc., should file a declaration in Form 49 containing the details of ongoing projects, transfer of apartment etc.

We test checked the assessment records of 51 contractors in three² assessment circles, and noticed that in 16 cases the applications filed were not accompanied by the documents required under Rule 11. However, the AA accepted the applications and accorded permission for payment of compounded tax instead of rejecting the same and levying tax under section 6 of the Act. This resulted in short collection of tax of ₹ 6.80 crore.

We pointed out the matter and the Commissioner opined that permission granted was conditional and the copies of agreements would be insisted upon at the time of submission of final return. The reply is not acceptable as Rule 11 (1) read with (1A) stipulates that application for exercising option for compounded tax under Section 8 shall be filed within 30 days from the date on which the contract in respect of which such option filed is concluded. Along with the application the dealer shall furnish a copy of the agreement executed by the contractor with the awarder and work schedule.

Section 8 (a) of the KVAT Act 2003, envisages that the benefit of payment of tax under the said section should not be applied to any work contract where the transfer is in the form of goods. The Supreme Court of India had ruled³ that the work of supply and installation of elevator is not a work contract and hence not entitled for compounding.

We noticed that M/s Infosoft Digital Designing Services (P) Ltd., an assessee on the rolls of CTO, third circle, Thiruvananthapuram undertook a contract work which was in the nature of transfer of goods ie. "Supply and installation of flight information display system" and received ₹ 1.17 crore during the year 2008-09. The AA, however, permitted the contractor to pay compounded tax of ₹ 3.51 lakh.

2 CTO(WC) Kottayam, Mattancherry and Thrissur.

3 Kone Elevator (India) Ltd., V/s State of Andhra Pradesh [140STC22(SC)].

Since the contractor transferred materials in the form of goods and the instant case is similar to the Supreme Court judgement cited above, he was not eligible to opt for the compounding scheme. The incorrect grant of permission resulted in short levy of tax of ₹12.27 lakh (including interest).

We pointed out the matter and the AA stated that the work forms a part of a composite contract which includes floor/ceiling/wall mounts as per site requirements and hence that will not fall under the category of transfer in the form of goods. The reply is not acceptable since out of the total contract amount of ₹ 1.76 crore, ₹ 1.63 crore (nearly 90 per cent) related to cost of equipment and only the balance of ₹ 0.13 crore related to installation charges, which was incidental to the main contract.

Application of incorrect rate of compounded tax

Section 8(a) of the KVAT Act 2003, as amended by the Kerala Finance Act 2008, specifies the rate of compounded tax payable by contractors having registration under the CST Act, 1956 as eight per cent of the whole contract receipt. It has further been provided under the said Section that in the case of any work covered under the above provisos which remains unexecuted fully or partly at the end of the year, the contractor shall continue to pay tax in respect of such works in accordance with the provisions of this clause.

By the Kerala Finance Act 2009, further provision has been inserted under Section 8(a) of the Act to the effect that in respect of works which commenced prior to 1st April, 2008 and which remains partly unexecuted as on 1st April, 2008 the contractor shall pay tax at the rates as it existed prior to 1st April, 2008 till the completion of work, or up to 31st March, 2009 whichever is earlier. This provision came into effect from 1st April, 2009 and is not applicable for 2008-09.

We found from the assesment records of four assesseees in four works contract circles that the amount of compounded tax remitted for the year 2008-09 by these four works contractors was not at the rate prescribed, resulting in short remittance of tax and interest amounting to ₹ 6.64 crore as detailed below:

Name of Office	Name of assessee	Amount of contract receipt	Tax remitted	Tax due @8%	Short remittance (including cess)	Interest due
CTO (WC) Palakkad	Oceanus Dwelling (P) Ltd.	1,786.53	71.46	142.92	72.18	14.44
CTO (WC) Mattancherry	Sargam Builders	139.73	4.19	11.18	7.06	1.48
CTO (WC) Ernakulam	Assest Homes (P) Ltd.	8,125.50	194.99	650.04	459.61	96.52
CTO (WC) Pathanamthitta	Btech Builders	199.02	5.97	16.08	10.21	2.53
Total					549.06	114.97

M/s Vellappally Construction, an assessee on the rolls of CTO (WC), Kottayam having registration under the CST Act, opted for payment of tax under the compounded scheme and the AA permitted to pay compounded tax vide orders issued during October 2009. The assessee filed annual return for the year 2008-09 in form 10B disclosing a total contract receipt of ₹ 5.02 crore. Out of the total contract receipt, ₹ 4.96 crore was taxed at the rate of four per cent on the ground that it related to ongoing projects and the balance of ₹ 5.53 lakh at the rate of eight per cent. Our scrutiny of the accounts of the dealer filed with the Department revealed that during the year the assessee received ₹ 7.58 crore which related to new contract entered during the year 2008-09 attracting tax at the rate of eight per cent. Thus the AA did not notice the turnover that escaped assessment as well as application of incorrect rate of tax, which resulted in short remittance of tax of ₹ 50.15 lakh (including cess and interest).

Irregular grant of exemption

Section 8(a) (ii) of the KVAT Act inserted by Finance Act 2009, provides that any works contractor having registration under the CST Act or an importer as defined under the Act, opting for payment of tax under the compounding scheme should pay tax at the rate of three per cent of the contract receipt after deducting the purchase value of goods effected by way of interstate purchase and for the purchase value of goods so deducted should pay tax at the schedule rate applicable to such goods.

We noticed that M/s KMC Construction Ltd., an assessee on rolls of CTO (WC), Mattanchery who opted for payment of tax under the compounding scheme did not remit the tax due on goods valued ₹ 6.41 crore purchased interstate and transferred through works contract during the year 2009-10. This resulted in non remittance of tax of ₹ 60.57 lakh (including interest). However, we noticed that the assessee had disclosed ₹ 31.58 lakh as output tax due on "others" details of which are not ascertainable.

We observed that in the following cases, tax was computed on the contract receipt after deducting labour charges thereon instead of on the whole contract receipt. This resulted in short computation of tax of ₹ 25.99 lakh (including interest) as detailed below:

(1)	(2)	(3)	(4)	(5)	(6)
Name of office	Name of assessee/year	Contract receipt	Amount deducted towards labour	Tax due (including) Cess @ one per cent for 2008-09 and 2009-10 /interest	Total
(₹ in lakh)					
CTO, WC, Thrissur	Swaraj Builders				
	2006-07	110.49	102.65	2.05 0.92	2.97

(1)	(2)	(3)	(4)	(5)	(6)
	2007-08	119.54	96.65	1.93 0.64	2.57
	2008-09	124.39	37.75	1.14 0.24	1.38
	2009-10	84.95	73.18	2.22 0.20	2.42
CTO, WC, Palakkad	Geogy George 2008-09	531.71	54.47	1.63 0.33	1.96
CTO, WC, Kottayam	SOJ Associates 2008-09	76.66	69.77	2.11 0.36	2.47
	Sanoj Mathew 2008-09	770.89	101.50	3.08 0.49	3.57
	South India Foundation 2008-09	192.32	111.86	3.39 0.54	3.93
Works Contract, Ernakulam	RDS Project Ltd. 2007-08	6,158.60	97.50	3.90 0.82	4.72
Total					25.99

We verified the cases locally and found that exemption claimed as labour in these cases were not for separate labour contract, but were part of composite contract under compounding scheme. The exemption allowed from the turnover was not correct.

Since the Department is fully computerised and returns are filed online, Government may consider building a validation in the software to ensure that the works contractors opting for compounding are not permitted to claim any deduction other than for payment to sub contractors.

Turnover escaped assessment

From the annual returns filed we noticed in the case of twelve contractors opting for payment of tax under the compounding scheme that the contract receipts returned was much lesser than that accounted for resulting in short remittance of tax of ₹ 4.65 crore (including interest) as detailed in the following table:

(1)	(2)	(3)	(4)	(5)	(6)	(7)	
Name of Office	Name of Contractor	Year/ Contract receipt returned	Contact receipt as per A/cs	Turnover escaped	Tax due/Interest due	Total	
(₹ in lakh)							
CTO, Works Contract Ernakulam	M/s Jayakrishnan & Co.	2005-06	184.65	23.53	0.47	0.73	
		161.12			0.26		
		2006-07	260.17	69.23	1.38	1.99	
			190.94		0.61		
			2008-09	604.08	128.40	3.89	4.67
			475.68		0.78		
		NJK Builders (P) Ltd.	2006-07	621.21	149.87	3.00	4.32
	471.31				1.32		
			2007-08	682.59	284.79	5.70	7.52
		397.80		1.82			
	Asset Homes (P) Ltd.	2006-07	1,443.88	1,375.74	27.51	40.17	
		68.14		12.66			
CTO, Works Contract Malappuram	K. Mosakutty	2007-08	210.36	69.83	2.10	2.41	
		140.53		0.31			

(1)	(2)	(3)	(4)	(5)	(6)	(7)
CTO, Works Contract Kottayam	Thalapala Engineering company	2008-09 72.61	644.64	572.03	23.11 0.39	23.50
	Wexco Homes (P) Ltd.	2008-09 987.06	1,837.39	850.33	68.71 11.68	80.39
		2007-08 1,113.77	1,849.33	735.57	29.42 8.53	37.95
	Home Basics	2008-09 117.06	344.57	227.51	6.89 1.17	8.06
	Shaji Mathew	2007-08 1,117.55	1,232.15	114.60	2.29 0.73	3.02
CTO, Works Contract, Kozikode	Hilite builders	2008-09 2,458.13	4,912.15	2,454.02	198.28 25.78	224.06
CTO, Works Contract, Mattachery	JVN Properites	2008-09 96.87	158.42	61.55	1.86 0.37	2.23
CTO, Works Contract, Thrissur	Pentark Builders and developers	2008-09 388.36	576.49	188.13	15.20 2.89	18.09
	Trichur builders	2008-09 1,853.09	2,014.48	161.39	4.81 1.00	5.81
		Total				464.92

Shri Mohan Matew, Neelettu construction, a works contractor on the rolls of CTO (WC), Kottayam opted for payment of tax under the compounding scheme for the year 2009-10 and filed return in form 10B disclosing contract receipt of ₹ 4.05 crore. Scrutiny of the assessment records revealed that the contractor was issued certificate in form 20E for receiving contract amount of ₹4.24 crore without TDS from three awarders. However, contract amount returned as received from the said three awarders was ₹ 47.90 lakh only. Thereby contract amount of ₹ 3.76 crore had escaped assessment. This resulted in short remittance of tax of ₹ 11.38 lakh (at the rate three per cent+cess).

The Government may consider prescribing minimum percentage of the certificates filed by works contractors along with returns to be checked/cross verified by AA for exemption from TDS etc.

Omission to forfeit the illegal tax collection

Section 30(2) of KVAT Act 2003 restricts works contractors paying tax under Section 8(a) of the Act from collecting tax up to 31st March, 2008. Section 72(1) of the Act provides to forfeit to Government any sum collected by dealers by way of tax in contravention of section 30(2).

We noticed that the following works contractors, who opted for payment of tax under the scheme, collected tax as evidenced from accounts as well as from the agreement entered into with the awarders. The AA did not forfeit the amount collected by way of tax of ₹ 15.60 crore to the Government as detailed below:

(₹ in lakh)

Name of office	Name of assessee	Year	Contract receipt	Tax collected	Interest	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)
CTO (WC) Ernakulam	Mather Projects	2005-06	2,687.50	94.91	56.00	150.91
		2006-07	5,359.99	182.83	85.93	268.76
		2007-08	8,469.67	338.79	118.58	457.37

	Novel Villas	2005-06	839.51	16.79	9.91	26.70
		2006-07	1,497.97	29.96	14.08	44.04
		2007-08	1,721.64	34.43	12.05	46.48
	Korath Gulf Links	2006-07		3.04	1.43	4.47
		2007-08		14.51	5.08	19.59
	Kent Construction	2006-07	285.58	6.57	3.09	9.66
		2007-08	845.68	33.83	11.84	45.67
	Desai Homes	2005-06	4,421.77	88.44	52.18	140.62
		2006-07	5,747.48	114.95	54.03	168.98
		2007-08	5,893.76	117.88	41.26	159.14
CTO (WC) Pathanamthitta	Tropicana Reality Developers	2007-08	380.03	7.61	2.82	10.43
	B-Tech Builders	2007-08	262.94	5.28	1.95	7.23
Total						1,560.05

We pointed out the matter and the AA replied that agreement contains a clause for payment of tax including sales tax, but the clause by itself is not the basis to conclude that the dealer has collected tax from the customers. The reply is not acceptable as the contract agreement clearly specifies the payment of tax to be paid along with each installment. Further, while applying for compounding the dealer had filed the copy of the agreements which clearly indicated the element of tax payable to the dealer by the purchasers.

[Audit paragraphs 2.11.7.1 to 2.11.7.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts).

Notes furnished by the Government on the above audit paragraph is included as Appendix II]

14. Regarding the audit observation about incorrect grant of permission to pay compounded tax, the committee accepted the explanation furnished by Department.

15. With regard to the audit observation that the contractors viz. M/s Oceanus Dwellings (P) Ltd., M/s B-Tech Builders, M/s Sargam Builders, Assets Homes (P) Ltd., and M/s Vellappally structures, had incorrectly remitted the amount of compounded tax for the year 2008-09, as against the prescribed rate that, resulted in short remittance of tax and interest amounting to ₹ 6.64 crore, the Committee sought the explanation regarding the same. In the case of M/s Oceanus Dwellings (P) Ltd., there was variation of figures booked by the audit. In this regard, the witness, Commissioner of Commercial Taxes appraised that M/s Oceanus Dwelling (P) Ltd., had different projects which were compounded @ 4% and @ 8% and accordingly tax was calculated separately and difference pointed out by Audit might be due to the calculation of tax at flat rate of 8% for all projects. The cases of M/s B-Tech builders and M/s Sargam Builders were pending and mistake occurred in the annual audit statement of Asset Homes (P) Ltd. had been rectified subsequently. Regarding, M/s Velappally Construction, the Committee sought the reason for the short remittance of tax of ₹50.15 lakh, an official from the Office of the Accountant General detailed that as per the statements filed by the firms, there was huge variation between the opening and closing balances and as per the submitted data all the ongoing projects were completed in the year 2007-08 and new projects were started from 2008-09 and tax was calculated accordingly. In this context, the Committee directed the Taxes Department to furnish a clear response to the audit objection and the witness, Commissioner of Commercial Taxes agreed to do so.

16. Regarding the irregular grant of exemption to M/s KMC Constructions Ltd., the Committee was informed that an amount of ₹ 2,43,72,497 was allowed as subcontract which was not included in the original returns submitted for audit. The CCT submitted that the AA reported that documents to prove subcontract was available with firm. The Committee accepted the explanation furnished by the Department.

17. With regard to the audit observation that irregular exemption on labour was claimed by M/s Swaraj Builders the Committee wanted the details, and the witness, Commissioner of Commercial Taxes Department replied that deduction was done on the basis of separate labour contract. In this context an official from the Office of the Accountant General intervened and informed that large amount of money seems to be deducted as labour component in compounded cases and opined that eventhough separate labour contract was liable to tax in the case of composite contract labour component could not be deducted in compounding. But since documents were not available for auditing they could not ascertain the exact position. In response to the comment made by the Accountant General regarding the non availability of document, the Committee directed the department to produce the documentary evidence before the Accountant General to counter the comments and the witness, Commissioner of Commercial Taxes agreed to do so.

18. To a query of the Committee, about the recollection of the amount exempted irregularly to Geogy George (2008-09), CTO (WC) Palakkad the CCT assured to submit the report for verification by AG at the earliest.

19. In the case of Soj Associates, the committee directed the department to submit the documents on labour contracts to AG immediately.

20. In the case of NJK Builders (P) Ltd., an official from the office of the Accountant General firmly stood for the reconciliation of figures booked in the Accounts and Tax returns in order to ascertain the quantum of amount escaped from assessment and the witness Commissioner of Commercial Taxes agreed with the suggestion made by the Accountant General.

21. With regard to the audit reference on M/s Assets Homes Pvt. Ltd., CTO (WC) Ernakulam the Committee reiterated that the opinion from the Law Department regarding whether land value need to be taken into account for the calculation of tax should urgently be secured to settle the issue the witness Commissioner of Commercial Taxes agreed to do so.

22. With regard to audit objection in respect of Shri Mosakutty, Moothadathu House, Morayur, Malappuram, Home Basics (2008-09) CTO (WC) Kottayam, Shaji Mathew (2007-08), Hilite Builders (2008-09) CTO (WC) Kozhikode, JUN Properties, M/s Pentark Builders and Developers for the year 2008-2009, M/s Thrissur Builders (2008-09), Shri Mohan Mathew, Neelettu Construction, the committee accepted the explanation furnished by the department.

23. With regard to Wexco Homes (P) Ltd., the CCT appraised that the firm regularly pay tax every year, but cumulative figures were shown in the account statement. But the representative from the Office of the Accountant General submitted that cumulative figure could not be shown in the accounts, it should be 'for the year receipts'. Then the Committee directed to submit a detailed reply, the witness, Commissioner of Commercial Taxes Department agreed to do the same. The Committee was also informed that the case of Thalapala Engineering RR proceedings was not completed.

24. The Committee was informed that the tax collected mentioned in form 13A was not actually collected tax, but it was the tax element of the transfer value of materials and an official from Office of the Accountant General submitted that the firm had not produced any document to prove that the figure was wrongly entered. The witness, Commissioner of Commercial Taxes Department assured to re-examine the case as per the direction by the Committee.

Conclusions/Recommendations

25. The committee realises that tax evasion has been occurred in many cases due to incorrect application of compounding tax rate as well as turnover. Therefore the Committee urges the Taxes Department to furnish a comprehensive report regarding the system of tax compounding and turnover assessment with special emphasis on the measures to curtail revenue lapse.

MECHANISED METAL CRUSHER UNIT [SN 8(B)]

Incorrect computation of compounded tax

The KVAT Act allows dealers producing granite metal with the aid of mechanised crushing unit to pay tax at the rates specified under Section 8(b) on the basis of the jaw size of

the crushers used by them. The Act, as it stood up to 31st March, 2008, provided for levy of tax on primary crushers⁴ at the rate of 50 per cent of the rates specified in accordance with jaw size, thereby assessing each and every primary crushing unit. The Act was amended with effect from April 2009. The Minister for Finance in the budget speech clarified: "the amendment was made to clear doubt regarding tax on primary crushers and made primary crushers as a whole for the purpose of computation of compounded tax, at the rate of 50 per cent of the aggregate of the tax payable on secondary crushers".

M/s K K Rocks and Granites India Pvt. Limited, a mechanised metal crusher unit on the rolls of CTO, third circle, Thiruvananthapuram had opted for payment of tax under section 8(b) of the Act for the year 2007-08. The unit possessed a cone crusher of jaw size 36" X 8" which is classified separately from 2007-08 onwards as it is neither a primary nor a secondary crusher on which tax was paid at the rate of ₹ 3.60 lakh (secondary crusher) instead of at the correct rate of ₹ 7.50 lakh resulting in short remittance of tax of ₹ 3.90 lakh.

We found from the inspection report dated 4th July, 2008 available in the records of CTO, Thiruvalla that M/s Panachayil Industries was in possession of 14 metal crusher units, which they opted for compounding in 2008-09. However, in 2009-10, they opted for compounding of nine crusher units only. The AA had no details regarding disposal of plant and machinery by the dealer and hence the matter needs to be investigated as to whether there was short levy of compounding tax during 2009-10.

Non-consideration of addition made in fixed assets (Plant and machinery)

We test checked the accounts of metal crusher units, and noticed that in the following cases, considerable addition to fixed asset (Plant and machinery) was accounted for during the years. The assessing authorities did not ascertain whether the addition was due to purchase of crusher units. Considering the huge amount of addition made in the fixed asset, the possibility of undisclosed crusher unit in these cases cannot be ruled out. This requires detailed enquiry by the AA.

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- 4 Primary crushers are crushers in which rocks upto 5ft by 4ft by 4ft in size were crushed to size of 12 inches or smaller.
- 5 At secondary crusher, the crushed stone passes over a screen and the metal is again crushed into smaller size.

Sl. No.	Name of Office	Name of the assessee	Year	Addition made to fixed asset during the year (₹ in lakh)
1	CTO, 3 rd Circle, Thiruvananthapuram	KK Rocks and Granites India (P) Ltd.	2007-08	41.50
			2008-09	174.02
2	Special Circle, Thrissur	M/s Thomson Granite (P) Ltd.	2009-10	23.46
3	CTO, Angamaly	M/s Poabs Granite Products (P) Ltd.	2008-09	1,466.59
4	CTO, Thiruvalla	M/s Panachayil Industries	2006-07	135.43
			2007-08	300.54
			2008-09	309.84

We recommend that the Government may consider issuing instructions for periodical inspection of metal crusher units so as to ascertain the number of units in the possession of the assessee.

[Audit paragraphs 2.11.8 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts).

Notes furnished by the Government on the above audit paragraph is included as Appendix II]

26. With regard to the audit observation about M/s K.K.Rocks and Granites India Private Ltd., the Committee was informed that part of the additional demand was collected and the balance was to be realised. In this regard an official from the Office of the Accountant General remarked that the departmental figure and the figure shown as assessment in the returns were different. The committee directed the Accountant General to verify the documents, and the Accountant General agreed to do the same.

27. When the Committee sought the present position of the case, of M/s Panachiyil Industries an official from the office of the Accountant General informed that the firm opted compounding of nine crusher units in the year 2009-10. But they were in possession of fourteen units in 2008-09. The department did not even verify the reason for the reduction in the number of units before giving permission for compounding. In this context the Committee directed to submit revised reply regarding the same, incorporating the details of five crusher units, the witness, Commissioner of Commercial Taxes replied that directions had been issued to the officials of Pathanamthitta Districts in this regard.

28. Regarding the lack of system to verify the nature of addition or reduction of machinery periodically, by the crusher units the Committee decided to recommend that Taxes Department should conduct the periodical reconciliation regarding the number of crusher units by verifying the relevant records maintained by the Pollution Control Board (PCB).

29. Regarding the objection raised against M/s Poabs Granite Products (P) Ltd., audit observation, the Committee enquired that how the expenditure relating to sister concern would be accounted in assessee account, an official from the office of the Accountant General detailed that, since the sister concern mentioned was a separate entity located in Tamil Nadu and it could not be accounted in the present account maintained in Kerala. The witness, Commissioner of Commercial Taxes apprised that the registration of all firms of that dealer in Kerala were in the name M/s Poabs Granite Products but with different TIN numbers. When enquired whether the department had checked the places of functioning of the units, the CCT submitted that it would be verified at the check posts by the Invoice Assessing Authority and accordingly difference was noticed. In this context, the Committee directed the department to verify and submit additional information regarding it, and the witness, Commissioner of Commercial Taxes agreed to do so.

30. When noticed that Tax was not yet collected from M/s Panchayil Industries, Thiruvalla the Committee directed the department to collect the amount of tax due towards the entity immediately.

Conclusions/Recommendations

31. The Committee opines that it is the clear example of the irresponsibility of the officials of the department that the department allowed compounding in 2009-10 neglecting five units that missed out from previous year. Therefore, the Committee directs to submit a revised reply incorporating the details of five missed out crusher units of M/s Panachayil Industries, Thiruvalla.

32. The committee recommends that Taxes Department should conduct periodical reconciliation regarding the number of plants and machinery in possession with the metal crusher units by verifying the relevant records maintained by the Pollution Control Board.

33. The Committee also directs the department to furnish a detailed report on the audit findings against metal crusher units and urges to realise the short remittances of tax at the earliest.

DEALERS IN ORNAMENTS OF GOLD etc.

Loss of revenue due to the introduction of compounding scheme

The Hon'ble Minister for Finance in his revised budget speech for the year 2006-07, observed that the rate of tax on jewellery was four per cent under the KGST Act, 1963 and on introduction of KVAT Act 2003 with effect from April 2005, the rate of tax was reduced to one per cent. Further, the Minister noticed that the trade did not reciprocate the reduction in tax rate by showing sufficient growth in turnover which resulted in shortfall in revenue during 2005-06 compared with that of 2004-05. Considering the fact that the jewellery market is a vibrant sector in Kerala with gold prices reaching record highs and in order to share the prosperity of the dealers, the Minister proposed to introduce a compounding scheme for jewellers. The proposal so made was implemented by the Kerala Finance Act 2006, whereby the normal rate of tax was increased to four per cent with effect from July 2006. According to the new scheme, dealers in jewellery were permitted to pay tax at the rate of 200 per cent of the maximum amount of tax paid for any of the previous consecutive three years. It was further provided that where a dealer had paid tax under the scheme during a year, compounded tax payable for the succeeding year should be 115 per cent of the tax paid under

the scheme during the previous year. Thus by availing the proviso, if a dealer had paid tax under the compounding scheme for a year, for the subsequent year, additional tax burden would only be 15 per cent more than that during the previous year. Again, by the Finance Act 2008, the rate of compounded tax was reduced to 150 per cent from 200 per cent with effect from April 2008. The price of gold had substantially appreciated during the period from 2005-06 to 2009-10 at the compounded rate of 21.97 per cent.

From the above details, it could be seen that the additional tax burden of 15 per cent for the succeeding year was not even capable of covering the tax due to the increase in price.

Further, trade in gold jewelry increased substantially during the period. However, we noticed that the dealers limited their additional tax burden to 15 per cent by availing the scheme which could cover turnover much less than the actual defeating the spirit behind implementation of the scheme, ie sharing the prosperity of the dealers. Rather the scheme became a tax saving one to the assessee, as detailed below:

(₹ in lakh)

Sl. No	Name of Assessee	Year	Sales t/o as returned (percentage of increase)	115 per cent of the previous year t/o actually covered under the scheme	Turnover escaped due the compounding scheme [(4)-(5)]
(1)	(2)	(3)	(4)	(5)	(6)
1	Malabar business centre (P) Ltd., Palakkad	2006-07	1,645.32		
		2007-08	4,184.22 (154)	1,892.12	2,292.10
		2008-09	13,972.22 (234)	2,175.92	11,796.30
		2009-10	18,981.82 (36)	2,502.31	16,479.51

(1)	(2)	(3)	(4)	(5)	(6)
2	Al Ahali business trade links Thrissur	2006-07	1,539.32		
		2007-08	3,008.85 (96)	1,770.22	1,238.63
		2008-09	6,641.13 (121)	2,035.75	4,605.38
		2009-10	8,794.57 (32)	2,341.11	6,435.46
3	Bhima Jewellery, Thiruvananthapuram	2007-08	21,485.26		
		2008-09	24,605.66(14.52)	24,708.04	(-) 102.39
		2009-10	50,507.15 (105.27)	28,414.25	22,092.90
4	Sunny Diamonds Thiruvananthapuram	2008-09	113.60		
		2009-10	786.70 (592.51)	130.64	656.06
5	Bhima Jewels Ernakulam	2007-08	12,756.65		
		2008-09	20,805.56 (63)	14,670.15	6,135.41
		2009-10	30,361.21 (46)	16,870.67	13,490.54
6	Malabar Kochi Arcade (P) Ltd Ernakulam	2007-08	1,567.36		
		2008-09	8,108.88 (417.90)	1,802.46	6,306.42
		2009-10	22,307.29 (175.90)	2,072.83	20,234.46
7	Malabar Dazzle India (P) Ltd. Malappuram	2007-08	410.48		
		2008-09	1,707.32 (316)	472.05	1,235.27
		2009-10	11,365.65 (565.56)	542.86	10,822.79

Thus, it is clear from the above table that the scheme did not cover the actual turnover of the dealers who opted for the same.

We recommend that the Government may adopt a pragmatic basis for fixing the rate of compounding tax so as to absorb price escalation as well as the growth in the trade.

Omission to reverse the input tax credit availed

Section 11(7) of KVAT Act, 2003, provides that goods in respect of which input tax credit (ITC) was availed and which are subsequently used for purpose for which ITC is not allowable should be reversed. Section 11(4) of the Act restricts the dealers opting for compounding scheme from availing input tax credit.

We observed that in two cases, ITC availed by dealers who opted for payment of tax under the scheme, on the purchases effected during the previous years and held in stock and used for sale in subsequent years on which tax was paid under section 8 (f), was omitted to be reversed. This resulted in revenue loss of ₹ 54.03 lakh as detailed in the following table:

Sl. No.	Name of office	Name of dealer	Year	ITC availed during previous years on opening stock
(₹ in lakh)				
1	Special circle I, Ernakulam	A. Geeri Pai Gold and Diamond	2008-09	37.06
2	Special circle II, Ernakulam	Malabar Cochin Arcade	2008-09	16.97
Total				54.03

The Commissioner, however, was of the view that this aspect was factored in while fixing the initial rate of 200 per cent and as such there is no loss. The reply is not acceptable as the initial rate had been reduced to 150 per cent from April 2008, applicable in the cases pointed out above.

The CCT may issue instructions for levy and collection of reverse tax on account of ITC availed on closing stock held in the preceding year before granting permission for compounding for the next year.

Incorrect compounding

M/s Bhima Jewels, a dealer in gold and diamond jewellery and an assessee on the rolls of CTO, Special circle II Ernakulam, opted for payment of tax under section 8(f) of the Act for the year 2009-10. It filed annual return disclosing total turnover of ₹ 392.90 crore and remitted tax of ₹7.57 crore stated to be due under section 8(f). The sales turnover returned included bullion also, which would not fall under the purview of Section 8 (f). However, the AA did not initiate action to assess the turnover of bullion under Section 6 (1) of the Act resulting in short levy of ₹ 76.50 lakh (including interest).

After we pointed out (January 2011) the matter, the AA replied (February 2011) that bullion was also covered under compounding scheme under the circular of CCT. During the exit conference, the CCT upheld the view stating that the intention of the Government was explained in his clarification. However, we found that the CCT had exceeded the powers while issuing the circular as the powers are limited only for issuing clarifications where there is ambiguity regarding classification of goods or rate of tax. By this clarification, the Commissioner brought bullion also under the compounding scheme which was beyond the scope of compounding and was against the provisions of the Act which allowed only dealers in ornaments or wares of gold to opt for it. If the intention of the Government was to include bullion also under the compounding scheme, the Act should have been amended as was done in 2011. Moreover, the Act when amended during 2011 did not give retrospective effect and we noticed that dealers who opted for compounding scheme for jewelry were paying tax under Section 6(1) for semi finished gold bar as could be seen from the point discussed in the last bullet. Hence the case requires further examination.

M/s Edimannikal Fashion Jewellery, an assessee on the rolls of CTO, Pathanamthitta had opted for payment of tax at the compounded rate for the year 2008-09. The AA fixed the compounded tax for the year as ₹8.97 lakh including cess. Against this, the assessee remitted ₹ 6.87 lakh only. However, the AA did not initiate action to collect the balance unpaid tax due of ₹2.10 lakh.

Further, for the year 2009-10, the AA erroneously fixed the compounded tax due as ₹ 7.90 lakh being 115 per cent of tax paid for 2008-09 instead of ₹ 10.31 lakh being tax payable for the year 2008-09 resulting in short levy of ₹ 2.41 lakh. Total short remittance for the two years comes to ₹ 4.51 lakh.

M/s Alukkas Jewellery, Thrissur and M/s Peeyar Exporters are dealers in jewellery on the rolls of CTO, Special Circle, Thrissur. They opted for payment of tax under the compounded scheme for the year 2008-09 and paid tax at the rate prescribed under Section 8 (f) of the KVAT Act for the turnover of jewellery. The dealers were also dealing in semi manufactured gold bar with HSN code 7108.13.00 falling under entry 4(4) of the Third schedule to the KVAT Act. The turnover of semi manufactured gold bar was assessed to tax at the rate of one per cent instead of at the rate of four per cent resulting in short levy of tax (including cess and interest) of ₹17.46 lakh as detailed below:

Name of assessee	Turnover of semi finished gold bar	Short levy at the differential rate of 3 percent+cess	Interest	Total
(₹ in lakh)				
Alukkas Jewellery	425.47	12.89	2.71	15.60
Peeyar Exporters	50.68	1.54	0.32	1.86
Total				17.46

[Audit paragraphs 2.11.9 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts).

Notes furnished by the Government on the above audit paragraph is included as Appendix II]

34. The committee rejoined with the explanation put forth by the department and clarified that the growth in turnover was due to the introduction of compounding scheme, and not because of the imposition of four per cent tax. It also reminded that the legislative intention in this regard, was to bring every gold dealers under the purview of compounding scheme, so as to achieve targetted one per cent tax get collected. The Committee also made it clear that the enhancement of tax from 15% to 25% in the intial year was a deliberate move to bring the dealers under the purview of compounding scheme. The Committee also negated with the suggestion by the department to scale down the taxes again. It endorsed the

recommendation of Accountant General that government may adopt a pragmatic basis for fixing the rate of compounding tax so as to absorb price escalation as well as growth in the trade.

35. With regard to the audit observation, the Committee wanted the reasons in detail, and an official from the office of the Accountant General informed that section 11(4) of the KVAT Act restrict the dealers opting for compounding scheme from availing input tax. He also pointed out the observation that input tax already availed should be reversed in some cases. In this context the Committee evaluated that the contention of Audit was not tenable and opined that revision of input tax deemed to be non-practical because of the change in the base years. The Committee pointed out that the initial compounding was at the rate of 1% and at present the compounding of tax is as the rate of 4% and denied any chance of anomaly in this regard and accepted the explanation of the department.

36. Regarding the audit observation, the Committee asked the reason for not imposing penalty for the incorrect compounding of tax, by the Assessing Authority, the Witness, Joint Commissioner, Commissionerate of Commercial Taxes deposed that as per the circular issued by the CCT in 2006 bullion could be included for compounding and in 2011, necessary amendment was brought to the Act in this regard. Then an official from the office of the Accountant General raised doubts over the executive credentials of the Commissioner to issue such a circular, and also informed that KVAT Act was amended in the year 2011 only, but there was no retrospective effect in this regard. In this context, the Committee directed the department to submit a detailed and, comprehensive reply in this regard and the witness, Joint Commissioner, Commercial Taxes Department agreed to do so.

Conclusions/Recommendations

37. The Committee recommends that the Government should adopt a pragmatic basis for fixing the rate of compounding tax so as to absorb price escalation as well as growth in the trade.

38. The Committee observes that the A.A. initiate action neither to assess the turn over of bullion under 8.6 (1) of the Act nor to collect the balance unpaid tax which resulted in the short levy of tax. Therefore, the Committee directs the Taxes department to submit a detailed report on the tax evasion due to inclusion of bullion under compounding scheme prior to 2011 with special mention on any non compliance of existing rules in this regard.

Thiruvananthapuram,
30th January, 2018.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

APPENDIX I

SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

Sl. No.	Para No.	Department concerned	Conclusion/Recommendation
1	2	3	4
1	4	Taxes	The Committee directs the Taxes Department for conducting immediate reconciliation of KGST, CST and VAT returns from the assessees to rectify the variations in tax figures.
2	9	Taxes	The Committee admonishes the officials of the Taxes department for their indolent attitude in realising arrears even in accepted cases and the Committee directs that the department should take stringent action to expedite the revenue recovery proceedings.
3	11	Taxes	The Committee observed that none of the observation of Internal Audit Wing during 2009-10 and 2010-11 had not been cleared by the assessment wing. The committee opines that, the internal audit wing of the Taxes department need to function more effectively Therefore, it recommends that the internal audit wing should be strengthened by providing adequate staff and directs the department to expedite actions to clear out the objections raised by the Audit within limited time frame.
4	13	Taxes	The Committee observes with concern that, non-maintenance of database of dealers who opt for compounding and notification of targets for enlisted

1	2	3	4
			dealers and collection of tax disabled the department to clearly assess the impact of compounding scheme. Therefore the Committee recommends that necessary modifications should be made in the KVATIS to generate category wise details of revenue realised under compounding as well as non compounding schemes.
5	25	Taxes	The committee realises that tax evasion has been occurred in many cases due to incorrect application of compounding tax rate as well as turnover. Therefore the Committee urges the Taxes Department to furnish a comprehensive report regarding the system of tax compounding and turnover assessment with special emphasis on the measures to curtail revenue lapse.
6	31	Taxes	The Committee opines that it is the clear example of the irresponsibility of the officials of the department that the department allowed compounding in 2009-10 neglecting five units that missed out from previous year. Therefore, the Committee directs to submit a revised reply incorporating the details of five missed out crusher units of M/s Panachayil Industries, Thiruvalla.
7	32	Taxes	The committee recommends that Taxes Department should conduct periodical reconciliation regarding the number of plants and machinery in possession with the metal crusher units by verifying the relevant records maintained by the Pollution Control Board.

1	2	3	4
8	33	Taxes	<p>The Committee also directs the department to furnish a detailed report on the audit findings against metal crusher units and urges to realise the short remittances of tax at the earliest.</p>
9	37	Taxes	<p>The Committee recommends that the Government should adopt a pragmatic basis for fixing the rate of compounding tax so as to absorb price escalation as well as growth in the trade.</p>
10	38	Taxes	<p>The Committee observes that the A.A. initiate action neither to assess the turn over of bullion under 8.6 (1) of the Act nor to collect the balance unpaid tax which resulted in the short levy of tax. Therefore, the Committee directs the Taxes department to submit a detailed report on the tax evasion due to inclusion of bullion under compounding scheme prior to 2011 with special mention on any non compliance of existing rules in this regard.</p>

APPENDIX II

NOTES FURNISHED BY GOVERNMENT

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Tax Administration
	(c)	Paragraph No.	2.1
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
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 organizational setup of Commercial Taxes Department.
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	
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	

VI

Remedial action taken

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

Action taken Notes on C&A's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Trend of receipts
	(c)	Paragraph No.	2.2
	(d)	Report No. and Year	C&A's report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	It was pointed out in the Audit that the Department was able to achieve a healthy growth rate of 23.97 % during 2010-11 which is the highest in the last five years.
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	
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Accountant General has appreciated the effort taken by the department in achieving a growth rate of 23.97 % during 2010-11 when compared to the previous year. The remarkable growth in collection is due to increase in volume of business, price hike & KVATTS scrutiny and improved enforcement measures.</p> <p>Details of collection upto the year 2013-14 is given below.</p> <table border="1" data-bbox="456 391 991 551"> <thead> <tr> <th>Year</th> <th>VAT</th> <th>Non VAT</th> <th>Total</th> <th>% of increase</th> </tr> </thead> <tbody> <tr> <td>10-11</td> <td>8395.54</td> <td>7760.39</td> <td>16155.93</td> <td>22.39</td> </tr> <tr> <td>11-12</td> <td>10055.19</td> <td>9255.35</td> <td>19310.54</td> <td>19.83</td> </tr> <tr> <td>12-13</td> <td>12619.85</td> <td>10268.88</td> <td>22888.73</td> <td>18.5</td> </tr> <tr> <td>13-14</td> <td>13860.96</td> <td>11515.29</td> <td>25376.25</td> <td>11.08</td> </tr> </tbody> </table> <p>Fall in the growth rate during 2013-14 is due to less demand for Motor vehicles, white goods, luxuries items etc and stagnation in the construction sector connected with general economic recession.</p>	Year	VAT	Non VAT	Total	% of increase	10-11	8395.54	7760.39	16155.93	22.39	11-12	10055.19	9255.35	19310.54	19.83	12-13	12619.85	10268.88	22888.73	18.5	13-14	13860.96	11515.29	25376.25	11.08
Year	VAT	Non VAT	Total	% of increase																							
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(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit																										

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Assessee Profile
	(c)	Paragraph No.	2.3
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	It was observed in the Audit that an incredible increase in the number of dealers registered. Also noticed that there was a significant increase in the number of dealers during 2010-11. Tax collection from KGST during 2010-11 was Rs.7402.07 crore as per the Finance Accounts by the Accountant General. On analysis, it was revealed that collection from 5 major dealers alone was Rs.7368.45 and the month wise collection under the KGST rendered by the department was Rs.7243.64 crores. Hence it was recommended in audit that the Department may reconcile figures and rectify the difference.
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	
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	The number of dealers registered at the end of 2010-11 was 178413 and this has increased to 229333 by the end of 2013-14 as below.																								
		<table border="1"> <thead> <tr> <th>Year</th> <th>No. of dealers</th> <th>Increase</th> </tr> </thead> <tbody> <tr> <td>2010-11</td> <td>178413</td> <td>8004</td> </tr> <tr> <td>2011-12</td> <td>190746</td> <td>12333</td> </tr> <tr> <td>2012-13</td> <td>220848</td> <td>30102</td> </tr> <tr> <td>2013-14</td> <td>229333</td> <td>8485</td> </tr> </tbody> </table>	Year	No. of dealers	Increase	2010-11	178413	8004	2011-12	190746	12333	2012-13	220848	30102	2013-14	229333	8485									
		Year	No. of dealers	Increase																						
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		The number of presumptive dealers as on 31.03.2014 was 29087 nos. and their contribution is 11.49 crores which would come only 0.05 % of the total revenue.																								
		The 5 major assesses under KGST are:-																								
		<ol style="list-style-type: none"> 1) M/s Beverages Corporation Ltd 2) Indian Oil Corporation Ltd 3) Bharath Petroleum Corporation Ltd 4) Hindustan Petroleum Corporation Ltd 5) Reliance Industries Ltd 																								
		The total collection during the year 2010-11 was Rs.16155.93. But the collection figured by AG is Rs.16009.18. The break up of collection is given below.																								
		<table border="1"> <thead> <tr> <th></th> <th>Department (Rs. in crores)</th> <th>AG (Rs. in crores)</th> </tr> </thead> <tbody> <tr> <td>VAT Collection</td> <td>8395.54</td> <td>8097.15</td> </tr> <tr> <td>KGST Collection</td> <td>7243.64</td> <td>7402.07</td> </tr> <tr> <td>CST Collection</td> <td>231.27</td> <td>310.42</td> </tr> <tr> <td>AIT Collection</td> <td>45.28</td> <td>46.97</td> </tr> <tr> <td>Other (LT & KML)</td> <td>240.20</td> <td>129.11</td> </tr> <tr> <td>Other charges</td> <td>0</td> <td>23.46</td> </tr> <tr> <td>Total</td> <td>16155.93</td> <td>16009.18</td> </tr> </tbody> </table>		Department (Rs. in crores)	AG (Rs. in crores)	VAT Collection	8395.54	8097.15	KGST Collection	7243.64	7402.07	CST Collection	231.27	310.42	AIT Collection	45.28	46.97	Other (LT & KML)	240.20	129.11	Other charges	0	23.46	Total	16155.93	16009.18
			Department (Rs. in crores)	AG (Rs. in crores)																						
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		Total	16155.93	16009.18																						
Revenue from the above 5 major dealers would comes to Rs.7368.45 crores. Of this, KGST collection is only Rs.6933.20. Breakup of collection is given below.																										
<table border="1"> <thead> <tr> <th></th> <th>Oil Company</th> <th>KSBC</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>KGST</td> <td>3158.17</td> <td>3775.03</td> <td>6933.20</td> </tr> <tr> <td>CST</td> <td>76.90</td> <td>0.00</td> <td>76.90</td> </tr> <tr> <td>VAT</td> <td>358.35</td> <td>0.00</td> <td>358.35</td> </tr> <tr> <td>Total</td> <td>3593.42</td> <td>3775.03</td> <td>7368.45</td> </tr> </tbody> </table>		Oil Company	KSBC	Total	KGST	3158.17	3775.03	6933.20	CST	76.90	0.00	76.90	VAT	358.35	0.00	358.35	Total	3593.42	3775.03	7368.45						
	Oil Company	KSBC	Total																							
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CST	76.90	0.00	76.90																							
VAT	358.35	0.00	358.35																							
Total	3593.42	3775.03	7368.45																							
The efforts are under way for reconciling the difference.																										

	(b)	Recovery of overpayment pointed out by audit	
	(c)	Recovery of under assessment, short levy or other duties	--
	(d)	Modification in the schemes and programmes including financing pattern	--
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C&AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Receipt of VAT per assessee
	(c)	Paragraph No.	2.4
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	It was observed in the Audit that the receipt of VAT/ sales tax per assessee during 2010-11 was Ra.9.15 lakhs which was higher than the previous year receipt of Ra.7.79 lakhs by 1.36 lakh.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	Findings of the audit is a clear indication that the receipts per dealer is steadily going up. The consistency is due to increase in the volume of business, price hike, KVATIS scrutiny and improved enforcement measure. The following table would show details of receipts per dealer upto 13-14.																				
		<table border="1"> <thead> <tr> <th>Year</th> <th>No. of dealers</th> <th>Total receipts (Rs in crores)</th> <th>Receipt / per dealer (Rs in lakhs)</th> </tr> </thead> <tbody> <tr> <td>2010-11</td> <td>178413</td> <td>16155.93</td> <td>9.05</td> </tr> <tr> <td>2011-12</td> <td>190746</td> <td>19310.54</td> <td>10.12</td> </tr> <tr> <td>2012-13</td> <td>220848</td> <td>22885.83</td> <td>10.36</td> </tr> <tr> <td>2013-14</td> <td>229333</td> <td>23376.25</td> <td>11.06</td> </tr> </tbody> </table>	Year	No. of dealers	Total receipts (Rs in crores)	Receipt / per dealer (Rs in lakhs)	2010-11	178413	16155.93	9.05	2011-12	190746	19310.54	10.12	2012-13	220848	22885.83	10.36	2013-14	229333	23376.25	11.06
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Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Arrears in Sales tax assessment
	(c)	Paragraph No.	2.5
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	It was observed in Audit that the Department has completed 6947 assessments under KGST out of 13093 assessments which was 53.05 % of the assessments due for finalization. Hence it was recommended the Government to complete the assessments of the remaining cases in a time bound manner.
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	

VI

Remedial action taken

	(a)	Improvement in system and procedures, including internal controls.	<p>Pendency figured by audit is found correct. No. of KGST assessment to be completed as on 01.04.2014 was 4875 Nos. Of this pending KGST assessment relating to pre-VAT period is only 50 nos. which could not be completed due to court intervention. Directions were already given to the assessing officers to complete all pending assessments upto 2012-13 before 30.10.2014.</p> <p>In the review meeting convened by the Hon'ble Finance Minister of Kerala at Aluva on 12.12.2013 and in the subsequent review meeting of performance, Performance of each and every officer were noted by the Secretary (Taxes) and Commissioner of Commercial Taxes. The performance in this item was reviewed particularly and directed to initiate stringent action against those officers whose performance are very poor. Accordingly three officers were placed under suspension who are the least performers including the item of work and subsequently reinstated into the service, consideration of explanation submitted by the officers. Details of KGST assessment up to the year 2010-11 as on 31.7.14 is given below.</p> <table border="1" data-bbox="522 679 934 933"> <thead> <tr> <th>Year</th> <th>No.</th> </tr> </thead> <tbody> <tr> <td>2001-02</td> <td>34</td> </tr> <tr> <td>2002-03</td> <td>2</td> </tr> <tr> <td>2003-04</td> <td>6</td> </tr> <tr> <td>2004-05</td> <td>8</td> </tr> <tr> <td>2005-06</td> <td>2</td> </tr> <tr> <td>2006-07</td> <td>1</td> </tr> <tr> <td>2007-08</td> <td>3</td> </tr> <tr> <td>2008-09</td> <td>9</td> </tr> <tr> <td>2009-10</td> <td>23</td> </tr> <tr> <td>2010-11</td> <td>52</td> </tr> <tr> <td>Total</td> <td>141</td> </tr> </tbody> </table>	Year	No.	2001-02	34	2002-03	2	2003-04	6	2004-05	8	2005-06	2	2006-07	1	2007-08	3	2008-09	9	2009-10	23	2010-11	52	Total	141
Year	No.																										
2001-02	34																										
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2010-11	52																										
Total	141																										
	(b)	Recovery of overpayment pointed out by audit																									
	(c)	Recovery of under assessment, short levy or other dues																									

	(d) Modification in the schemes and programmes including financing pattern	-
	(e) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	-

Action taken Notes on Ch AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Cost of collection
	(c)	Paragraph No.	2.6
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
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 cost of collection was very high when compared with all India average.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>According to the Accountant General, expenditure on collection during 2010-11 was higher than the all India average. It may be noted that, cost of collection during the previous year was 0.85 % and that for the year 2010-11 was 0.70 %. A close reading of collection under KGST & VAT with expenditure incurred for the period from 2010-11 to 2013-14 has revealed that cost of collection which was 0.70 % during 2010-11 has decreased to 0.64 % during 2013-14 as shown below.</p> <table border="1" data-bbox="456 412 888 586"> <thead> <tr> <th>Year</th> <th>Tax (ST+VAT)</th> <th>Expenditure on collection</th> <th>% Expenditure on collection</th> </tr> </thead> <tbody> <tr> <td>2010-11</td> <td>15843.11</td> <td>111.26</td> <td>0.70</td> </tr> <tr> <td>2011-12</td> <td>18938.33</td> <td>142.47</td> <td>0.75</td> </tr> <tr> <td>2012-13</td> <td>22885.83</td> <td>152.06</td> <td>0.66</td> </tr> <tr> <td>2013-14</td> <td>25353.82</td> <td>163.86</td> <td>0.64</td> </tr> </tbody> </table>	Year	Tax (ST+VAT)	Expenditure on collection	% Expenditure on collection	2010-11	15843.11	111.26	0.70	2011-12	18938.33	142.47	0.75	2012-13	22885.83	152.06	0.66	2013-14	25353.82	163.86	0.64
Year	Tax (ST+VAT)	Expenditure on collection	% Expenditure on collection																			
2010-11	15843.11	111.26	0.70																			
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(d)	Modification in the schemes and programmes including financing pattern	--																				
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--																				

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Analysis of Collection
	(c)	Paragraph No.	2.7
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
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 Accountant General observed that the sales tax collection increased by Rs.2189.15 crore and VAT collection Rs.861.89 crore during the year 2010-11. It was also observed that the increase in collection of 41.99% under sales tax was due to steady increase in the price of petroleum products during 2010-11.
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	

VI

Remedial action taken.

(a)	Improvement in system and procedures, including internal controls.	<p>As observed by Accountant General, growth in the sales tax collection represents for the steady increase in the price of petroleum products during 2010-11 and growth in the VAT collection and CST collection is due to the increase in the volume of business, price hike, KVATIS scrutiny and enforcement measures. The table below would show the growth rate of VAT and Non VAT collection separately.</p> <table border="1" data-bbox="476 357 902 489"> <thead> <tr> <th>Year</th> <th>VAT</th> <th>Growth</th> <th>Non VAT</th> <th>Growth</th> </tr> </thead> <tbody> <tr> <td>10-11</td> <td>8395.54</td> <td>21</td> <td>7750.39</td> <td>24</td> </tr> <tr> <td>11-12</td> <td>10055.19</td> <td>20</td> <td>9255.35</td> <td>19</td> </tr> <tr> <td>12-13</td> <td>12616.95</td> <td>25</td> <td>10268.88</td> <td>11</td> </tr> <tr> <td>13-14</td> <td>13860.96</td> <td>10</td> <td>11515.29</td> <td>12</td> </tr> </tbody> </table> <p>The in consistency in the growth rate between VAT and Non VAT collection during 2012-13 is due to fall in collection from motor vehicles, white goods, luxuries items and stagnation in the constructions field coupled with economic recession.</p>	Year	VAT	Growth	Non VAT	Growth	10-11	8395.54	21	7750.39	24	11-12	10055.19	20	9255.35	19	12-13	12616.95	25	10268.88	11	13-14	13860.96	10	11515.29	12
Year	VAT	Growth	Non VAT	Growth																							
10-11	8395.54	21	7750.39	24																							
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(c)	Recovery of under assessment, short levy or other dues																										
(d)	Modification in the schemes and programmes including financing pattern																										
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit																										

Action taken Notes on Ch AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Impact of Audit (Revenue Inspector)
	(c)	Paragraph No.	2.8
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
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 the last four years, the Accountant General has pointed out the audit objections on various grounds with revenue implications of Rs.2520.40 crore in 8692 paragraphs. It was also observed and highlighted that the Departments failure in recovering the Government dues promptly even in respect of cases accepted by them.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Assessment has been completed / revised in almost all cases where defects pointed out by the audit is sustaining. Entire amount pending for realisation has been recommended for RR action. Details of assessment to be recovered under RR up to the year 10-11 is Rs.3885.56 crores. Year wise details are given below:</p> <table border="1" data-bbox="452 373 873 498"> <thead> <tr> <th>Year</th> <th>Amount (Rs. crore)</th> </tr> </thead> <tbody> <tr> <td>Up to 2007-08</td> <td>1714.98</td> </tr> <tr> <td>08-09</td> <td>406.99</td> </tr> <tr> <td>09-10</td> <td>695.04</td> </tr> <tr> <td>10-11</td> <td>1068.56</td> </tr> <tr> <td>Total</td> <td>3885.56</td> </tr> </tbody> </table> <p>Review on progress of collection under Revenue Recovery by the Revenue Department and Inspecting Assistant Commissioners of the Commercial Taxes Department are being conducted at district level and at higher level. During the last review meeting of District Deputy Commissioner, the Hon'ble Finance Minister on 12.12.2013, it was directed that 80% of collectable demand of Inspecting Assistant Commissioner under Revenue Recovery shall be recovered by the end of March 2014. As a result, collection under RR by the Inspecting Assistant Commissioner's has increased to Rs.95.78 crores and this is 68% of the collectable demand for the year 2013-14.</p>	Year	Amount (Rs. crore)	Up to 2007-08	1714.98	08-09	406.99	09-10	695.04	10-11	1068.56	Total	3885.56
Year	Amount (Rs. crore)													
Up to 2007-08	1714.98													
08-09	406.99													
09-10	695.04													
10-11	1068.56													
Total	3885.56													
(b)	Recovery of overpayment pointed out by audit													
(c)	Recovery of under assessment, short levy or other dues	-												
(d)	Modification in the schemes and programmes including financing pattern	-												
(e)	Review of similar cases/ complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	-												

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Working of Internal Audit wing
	(c)	Paragraph No.	2.9
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
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 Accountant General has pointed out in Audit that the need for strengthening of Internal Audit Wing and to prepare a separate Audit Manual.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The Internal Audit Wing has conducted 194 inspection and prepared audit reports containing 3066 observations involving short levy of 62.31 crores upto 31.03.2014 as listed below.</p> <table border="1" data-bbox="452 313 909 509"> <thead> <tr> <th>Year</th> <th>Inspection report</th> <th>Audit observation</th> <th>Amount involved (Rs in crores)</th> </tr> </thead> <tbody> <tr> <td>2010-11</td> <td>46</td> <td>919</td> <td>3.30</td> </tr> <tr> <td>2011-12</td> <td>32</td> <td>445</td> <td>27.38</td> </tr> <tr> <td>2012-13</td> <td>56</td> <td>369</td> <td>14.88</td> </tr> <tr> <td>2013-14</td> <td>60</td> <td>1333</td> <td>16.75</td> </tr> <tr> <td>TOTAL</td> <td>194</td> <td>3066</td> <td>62.31</td> </tr> </tbody> </table> <p>There are only 3 Assistant Commissioners and 6 Commercial Tax Officers are available for the audit purpose. The Assistant Commissioner's are mainly attending in the audit of special circles and works contract offices. The Commercial Tax officers are attending audit of ordinary circles. Due to scarcity of manpower, entire circle could not be audited in a year. However the internal audit wing has conducted inspections and prepared reports on 60 units during the year 2013-14.</p> <p>A comprehensive manual for VAT is under preparation in which guide lines for functioning of internal audit wing is also included.</p>	Year	Inspection report	Audit observation	Amount involved (Rs in crores)	2010-11	46	919	3.30	2011-12	32	445	27.38	2012-13	56	369	14.88	2013-14	60	1333	16.75	TOTAL	194	3066	62.31
Year	Inspection report	Audit observation	Amount involved (Rs in crores)																							
2010-11	46	919	3.30																							
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2013-14	60	1333	16.75																							
TOTAL	194	3066	62.31																							
(b)	Recovery of overpayment pointed out by audit.																									
(c)	Recovery of under assessment, short levy or other dues																									
(d)	Modification in the schemes and programmes including financing pattern																									
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit																									

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Results of Audit
	(c)	Paragraph No.	
	(d)	Report No. and Year	2.10 C&AG report for the year ended 31.03.2011
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 Accountant General has observed in the Audit that need for action from the Department for collection from the admitted cases.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	Observation of Accountant General relates to the period 2010-11. The short levy involved amounts to Rs.944.66 crores spread over paragraphs 2.11.7 to 2.14.25. With respect to the short levy pointed out by Accountant General reports are submitted on paras 2.11.7 to 2.14.25. Action is being proceeded to collect the amount where the audit objection are accepted and subsequently assessments are reviewed/completed and created addl. demand.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C&AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Introduction of organization setup Audit objectives scope and methodology of audits acknowledgment.
	(c)	Paragraph No.	2.11.1 to 2.11.5
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	It was observed in the Audit that general out look of the Department, organizational set up and Audit objectives etc.
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	

VI

Remedial action taken

		No remarks
(a)	Improvement in system and procedures, including internal controls.	
(b)	Recovery of overpayment pointed out by audit	--
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Review of compounding "Trend of Revenue"
	(c)	Paragraph No.	2.11.6
	(d)	Report No. and Year	C& AG Report ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	11.8.11
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	The recommendation is that the Govt. may develop a database of dealers who opt for compounding, to fix a target for collection of tax under the scheme and analyse the data in a scientific manner to refine the scheme.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	Details furnished in VI(a)
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	

VI

Remedial action taken

	(a)	Improvement in system and procedures, including internal controls.	<p>Online filing of application for compounding has been enabled in KAVATIS with effect from the financial year 2011-12 and now all compounding applications are received through KVATIS. KVATIS has already developed a database of dealers who opted for compounding. The details with respect to 2012-13 are as follows:</p> <table border="1" data-bbox="484 329 1026 736"> <thead> <tr> <th>Compounding application Type</th> <th>No. of Applications</th> </tr> </thead> <tbody> <tr> <td>Houseboat compounding</td> <td>468</td> </tr> <tr> <td>Cooked food (Bar Hotel/club/heritage hotel)</td> <td>225</td> </tr> <tr> <td>Liquor compounding (Bar hotels)</td> <td>365</td> </tr> <tr> <td>Medicine dealers compounding</td> <td>858</td> </tr> <tr> <td>Cooked food compounding (excluding bar hotels)</td> <td>1360</td> </tr> <tr> <td>Metal crusher units compounding</td> <td>915</td> </tr> <tr> <td>Gold compounding</td> <td>2673</td> </tr> <tr> <td>Works Contract compounding</td> <td>24284</td> </tr> <tr> <td>Total</td> <td>31148</td> </tr> </tbody> </table>	Compounding application Type	No. of Applications	Houseboat compounding	468	Cooked food (Bar Hotel/club/heritage hotel)	225	Liquor compounding (Bar hotels)	365	Medicine dealers compounding	858	Cooked food compounding (excluding bar hotels)	1360	Metal crusher units compounding	915	Gold compounding	2673	Works Contract compounding	24284	Total	31148
Compounding application Type	No. of Applications																						
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	(c)	Recovery of under assessment, short levy or other dues																					
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	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit																					

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to incorrect grant of permission to pay compounded Tax (WC)
	(c)	Paragraph No.	2.11.7.1(a)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	It was noticed in audit that in 16 cases the applications filed were not accompanied by the documents required under Rule 11. However, the AA accepted the applications and accorded permission for payment of compounded tax instead of rejecting the same and levying tax under section 6 of the Act. This resulted in short collection of tax of Rs.6.80 crore.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	For reason explained in column VI(a)
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>1. KAP India Projects (08-09, 09-10). 320816521245. CTO(WC), Thrissur.</u> The assessee M/s. KAP (India) Projects and Constructions (Pvt.) Ltd., Thrissur had filed compounding application, Form I DA in time and the details of projects and contract amount they dealt with during the years 2008-09 & 2009-10. They produced copies of the agreements executed with the awarders. No such contract was given by them to other contractors. Hence permission was granted to the contractor. Copies of agreements were kept in separate file and the same was not able to be traced out at the time of audit, but was later found out and filed in the records.</p> <p><u>2. M/s. Alkon Builders (32549890816 (06-07 to 09-10). CTO(WC), Thrissur.</u> The assessee M/s. Alkon Builders, Thrissur had already filed compounding applications in Form I DA in time. They are the sub contractor of 'Pinnacle, Thrissur' and having only one project at Panchikkal, Ayyanthole during the year 2006-07 to 2009-10. They have produced copies of their contract agreement together with work schedule. Hence permission was granted to pay tax at compounded rate. The copies of the agreement were misplaced at the time of audit but was later found out and filed in records. The assessee filed a revised work schedule together with contract agreement later.</p> <p>Further no irregularities were noticed in the audit visit conducted by the then Commercial Tax Officer (W.C.&L.T.), Thrissur on 31-01-2012.</p> <p><u>3. G.H. Vijayapura & Co. 32151085277/09-10. CTO(WC), Mattancherry</u> The assessing authority has granted permission to compound the tax u/s 8 on the basis of following documents.</p> <ol style="list-style-type: none"> 1. Letter No. PWD/KSTP/PNT/282/08 dtd. 12.3.09 of the Project Director, Kerala State Transport Project. 2. Copy of agreement executed by M/s. G.H. Vijayapura & Co., the Principal Contractor and M/s. EKK & Co., Sub Contractor.
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		<p>4. <u>Chandy's Homes: 32051697412/08-09, 09-10 CTO (WC), Kottavam</u> The contractor is engaged in the construction of Villas and apartments. The audit objection was that the dealer has not filed the agreements and declaration in Form 49 and hence the contractor is not eligible for compounding as per section 8(a)(i) of the KVAT Act 2003, and therefore the compounding application had to be rejected and the assessment to be completed by adopting the rate of tax @ 12.5%. In this case, the contractor has filed copies of the agreements and the Form 49. Hence the permission given to the contractor to pay tax at compounded rate is in order. There is, therefore, no short levy in this case.</p> <p>5. <u>Wexco Homes (Pvt) Ltd. 32051609954 (05-06 to 09-10), CTO (WC), Kottavam</u> The assessee has furnished form 49 declaration for the years 08-09 & 09-10.</p> <p>6. <u>A.E. Amelgo Home: 32051690186/08-09, 09-10 CTO (WC), Kottavam</u> The assessee has furnished form 49 declaration for the years 08-09 & 09-10.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to incorrect grant of permission to pay compounded Tax (WC)
	(c)	Paragraph No.	2.11.7.1(b)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	M/s.Infosoft Digital Designing Services (P) Ltd., an assessee on the rolls of CTO, 3 rd Circle, Thiruvananthapuram undertook a contract work which was in the nature of transfer of goods ie. "supply and installation of flight information display system" and received Rs.1.17 crore during the year 08-09. The assessing authority, permitted the contractor to pay compounded tax of Rs.3.51 lakh even though in the instant case the assessee was not eligible to opt for compounding scheme since the materials transferred was in the form of goods. The incorrect grant of permission resulted in short levy of tax of Rs.12.27 lakh (including interest).

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	
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>M/s Infosoft Digital Designing Services (P) Ltd., an assessee on the rolls of CTO, 3rd Circle, Thiruvananthapuram undertook a contract work which was in the nature of transfer of goods i.e. "supply and installation of flight information display system" and received Rs.1.17 crore during the year 08-09. The assessing authority, permitted the contractor to pay compounded tax of Rs.3.51 lakh.</p> <p>Since the contractor transferred materials in the form of goods, he was not eligible to opt for compounding scheme. The incorrect grant of permission resulted in short levy of tax of Rs.12.37 lakh (including interest). The CTO, 3rd Circle, Thiruvananthapuram has reported that the objection related to the assessment year 09-10 and not of 08-09. The assessment for the year 09-10 was completed by creating additional demand of Rs.1,45,710/-. The rate of tax adopted by the assessing authority is 4% & 12.5% as against 12.5% adopted by the audit. Hence the difference in short levy of tax as noted by the Accountant General and the Department.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to application of incorrect rate of compounded tax.
	(c)	Paragraph No.	2.11.7.2(a)(1)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para./Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	The Audit observation in this case is that the compounded tax remitted by the assessee for the year 08-09 was not at the rate prescribed which resulted in a short levy of tax amounting to Rs.72.18 lakh.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The dealer had opted for payment tax in compounding system U/s 8 (a)(1) of VAT Act, for the Projects Oceanus Residency, Palakkad and Blue Mount Project, Tivandrum. As per 5 th proviso to section 8(a) (ii), any works which commenced prior to 1 st April, 2008 and which remains partly unexecuted as on 1 st April, 2008, the contractor shall pay tax at the rates as existed prior to 1 st April, 2008 till the completion of work. Since the above projects were commenced during the year 2007-08, the tax payable is only @4% that was

			excited at that time. So there is no short levy as observed in the audit.
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	

VI

Remedial action taken

(a)

Improvement in system and procedures, including internal controls.

The matter has been examined with reference to the connected assessment records M/s Oceanus Dwelling (P) Ltd., Palakkad had filed annual return for the year 2008-09 as below.

	Amount received during the year	Taxable turnover	Tax due
Non-compounded 12.5%	6569834	6569834	821229
Compounded 4%	138469739	138469739	5538789
Compounded 8%	31024694	31024694	2481975
Total	176064267	176064267	8841994

On scrutiny of the returns certain defects were noticed, and therefore the return was rejected and the assessment completed as per section 25(1) of the VAT Act as per order No.32437360916/08-09 dated 31-07-2010 demanding balance amount of tax Rs.79,65,011.00 with interest Rs.12,74,402.00.

While finalising the assessment, with regard to application of rate of tax, it was noticed as under:

The dealer had executed the following 4 projects during the year 2008-09.

1. Oceanus Residency, Palakkad
2. Mac Flower Project, Palakkad
3. Blue Mount Project, Thiruvananthapuram.
4. Rainbow Project, Thiruvananthapuram.

The dealer had opted for payment tax in compounding system U/s 8 (a)(1) of VAT Act, for the Projects Oceanus Residency, Palakkad and Blue Mount Project, Thiruvananthapuram. As per 5th proviso to section 8(a) (ii), any works which commenced prior to 1st

		April, 2008 and which remains partly unexecuted as on 1 st April, 2008, the contractor shall pay tax at the rates as existed prior to 1 st April, 2008 till the completion of work. Since the above projects were commenced during the year 2007-08, the tax payable is only @4% that was existed at that time. So there is no short levy as observed in the audit.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on CA AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Application of incorrect rate of compounded tax
	(c)	Paragraph No.	2.11.7.2 (a) (2)
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
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 Accountant General has audited the assessment records for the year 2008-09 in respect of M/s Sargam Builders and observed that compounded tax assessed and remitted by the assessee was not at the rate prescribed and this has resulted in a short remittance of tax and interest of Rs.7.06 lakhs and Rs.1.48 lakhs respectively.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	The assessment in respect of M/s.Sargam Builders for the year 2008-09 was completed based on audit objection vide order No.32151086785/08-09 std.1.7.12 creating additional demand of tax Rs.615641 and interest Rs.169254. Dealer filed stay petition before the Hon'ble High court of Kerala. The Hon'ble High Court of Kerala vide WP(C) No.23245 of 2012(E) dtd.5.10.12 directed the assessee to remit Rs.1 lakh and furnish security for the balance due Rs.515641. Accordingly dealer has remitted Rs.1 lakh vide chalan No.9 114/5.12.12 and furnished security for balance amount. Appeal is still pending before AAC, Ernakulam surper KVATA 2426/12.
(b)	Recovery of overpayment pointed out by audit.	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Application of incorrect rate of compounded tax
	(c)	Paragraph No.	2.11.7.2 (a) (3)
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Verification of assessment records for the year 2008-09 reveals the amount of compounded tax remitted was not at the rate prescribed. Short remittance of tax was for Rs.459.61 lakhs and interest Rs.96.52 lakhs.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Asset Homes (P) Ltd 2008-09</p> <p>Based on audit observation, books of accounts were verified. As per audited statement of accounts filed by the assessee, the total contract receipt from ongoing contracts was Rs.745930512 and contract receipt from new contract was Rs.59954580. Thus the total contract receipt for both ongoing contract and new contract came to Rs.80,58,85,092.00. A mistake was crept while making entry in Part V of 13A statement, by which the contract receipt was shown as Rs.80,58,85,092/- in the year 2008-09 is from new projects. It is an inadvertent mistake on the part of the contractor. The contractor has filed revised return and reconciliation statement certified by the Chartered Accountant.</p> <p>Based on a report of the Investigation Branch, the assessment for the year 2008-09 was completed on 17.09.2014 creating an additional demand of Rs.2,89,461/- and interest of Rs.1,18,075/-.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to application of incorrect rate of compounded tax.
	(c)	Paragraph No.	2.11.7.2(a)(4)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	The audit observation in this case is that the compounded tax remitted by the assessee for the year 08-09 was not at the rate prescribed resulting in a short levy of tax amounting to Rs.10.21 lakh.
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	
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	

VI

Remedial action taken

	(a)	Improvement in system and procedures, including internal controls.	<p>1. M/s.B-Tech Builders (08-09) CTO(WCI) PTA</p> <p>The assessee opted for payment of tax under section 8(a) of KVAT Act 2003 for the year 08-09. The turnover disclosed by the assessee and the corresponding tax payment are as follows:</p> <table border="1" data-bbox="484 352 1037 446"> <thead> <tr> <th>Year</th> <th>Total turnover (in Rs.)</th> <th>Taxable turnover (in Rs.)</th> <th>Rate of tax</th> <th>Tax paid (in Rs.)</th> </tr> </thead> <tbody> <tr> <td>08-09</td> <td>26031377</td> <td>19901952</td> <td>3%</td> <td>597058</td> </tr> </tbody> </table> <p>On the basis of investigation conducted by the Commercial Tax Investigation Wing, Kottayam and their findings that the assessee had effected certain interstate purchases during the year 08-09 and so under the provisions of section 8(a)(ii), the contract receipt on current work would attract tax at the rate of 8% instead of that returned at the rate of 3%, orders were issued dtd.29.6.10 imposing penalty under section 67(1) of KVAT Act 2003 amounting to Rs.20,10,100/- being twice the amount of tax evaded on the taxable turnover of Rs.1,99,01,952/- (@8%).</p> <p>The dealer argued that they have not effected any interstate purchase being a compounded dealer, that they had placed purchase orders to the Cochin Office of the consignor who was a dealer registered under KVAT Act 2003. They approached the Hon'ble High Court of Kerala in WP(C)No.15113 of 2011 and Hon'ble STAT Appellate Tribunal and the Tribunal had stayed the penalty proceedings in TA(VAT)No.196/2011 dtd.25.8.11, granting conditional stay, since the tribunal viewed this case as debatable case.</p> <p>In the meantime, pre-assessment notice u/s 25 proposing to complete the assessment for the year 08-09, based on the materials gathered and communicated by the Intelligence Officer (IB), Pathanamthitta as per his proceedings No.(BP.225/09-10 (for 08-09) dtd.29.6.10, has been issued on 5.7.11.</p> <p>The assessee filed a petition on 11.7.11 requesting to keep the assessment proceedings pending till final orders are passed by the Hon'ble Tribunal in the penalty proceedings.</p> <p>The appeal filed before Tribunal is pending.</p>	Year	Total turnover (in Rs.)	Taxable turnover (in Rs.)	Rate of tax	Tax paid (in Rs.)	08-09	26031377	19901952	3%	597058
Year	Total turnover (in Rs.)	Taxable turnover (in Rs.)	Rate of tax	Tax paid (in Rs.)									
08-09	26031377	19901952	3%	597058									

			However in the interest of revenue the assessment is completed assessing the turnover fixed @ 8%.
(b)	Recovery of overpayment pointed out by audit		
(c)	Recovery of under assessment, short levy or other dues		
(d)	Modification in the schemes and programmes including financing pattern		
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit		

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Application of incorrect rate of compounded tax.
	(c)	Paragraph No.	2.11.7.2(b)
	(d)	Report No. and Year	C&AG Report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	M/s.Vellappalli Constructions an assessee on the rolls of (CTO(WC), Kottayam having registration under the CST Act opted for payment of tax under the compounded scheme and the assessing authority permitted to pay compounded tax vide orders issued during October 2009. The assessee filed annual return for the year 2008-09 in Form 10B disclosing a total contract receipt of Rs.5.02 crore. Scrutiny of the accounts of the dealer filed with the department revealed that during the year 08-09 the assessee received Rs.7.58 crore which related to new contract entered during the year 08-09 attracting tax at the rate of 8%. Short levy : Rs.50.15 lakh
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Based on audit books of accounts along with the newly entered agreement for the year 08-09 were verified and found that the dealer had conceded contract receipt of Ra.7.58 crore as found by audit. Of this, Ra.2.67 crore were subcontracted to M/s,Velloppally structures for which Form No.20H were filed. The subcontract amount was not considered by the AG. Balance amount was Ra.4.91 crore. Out of this, the dealer had shown Ra.4.58 crore as contract receipt from ongoing contract and paid tax @ 4%. The balance Ra.0.06 crore represents new contract receipt taxable @ 8%. After verification it was found that the dealer has new contract receipt of Ra.0.16 crore in addition to Ra.0.06 crore. Thus the total income from new contract receipt come to Ra.0.22 crore. This amount was assessed to tax, cess and interest as below:</p> <table border="1" data-bbox="458 613 945 827"> <tr> <td>Total contract receipt</td> <td>Ra.75808268</td> </tr> <tr> <td>Subcontract</td> <td>Ra.26680665 (supported by Form 20H)</td> </tr> <tr> <td>Balance taxable turnover</td> <td>Ra.49127603</td> </tr> <tr> <td>Receipt from ongoing contract @4%</td> <td>Ra.47009215</td> </tr> <tr> <td>Receipt from new contract @ 8%</td> <td>Ra.2118388</td> </tr> <tr> <td>Total</td> <td>Ra.49127603</td> </tr> </table> <p>Tax due @ 8% on new contract receipt : Ra.169471/- Already paid : Ra.106866/- Balance : Ra.62604 Cess : Ra.626 Interest : Ra.34144 Grand Total : Ra.97374 Paid Ra.97374 vide chalan No.298/10.10.13 Sub-Treasury, Kottayam.</p>	Total contract receipt	Ra.75808268	Subcontract	Ra.26680665 (supported by Form 20H)	Balance taxable turnover	Ra.49127603	Receipt from ongoing contract @4%	Ra.47009215	Receipt from new contract @ 8%	Ra.2118388	Total	Ra.49127603
Total contract receipt	Ra.75808268													
Subcontract	Ra.26680665 (supported by Form 20H)													
Balance taxable turnover	Ra.49127603													
Receipt from ongoing contract @4%	Ra.47009215													
Receipt from new contract @ 8%	Ra.2118388													
Total	Ra.49127603													
(b)	Recovery of overpayment pointed out by audit													
(c)	Recovery of under assessment, short levy or other dues	--												

	(d) Modification in the schemes and programmes including financing pattern	
	(e) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to irregular grant of exemption
	(c)	Paragraph No.	2.11.7.3
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	It was observed that tax was computed on the contract receipt after deducting labour charges thereon instead of on the whole contract receipt resulting in short computation of tax and interest of Rs.4.72 lakh.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	In the audit objection, total contract receipt was specified as Rs.6158.60 lakhs and treated entire receipt under compounded method u/s 8(a) of KVAT. It is against facts. During the year the dealer had both compounded work and non-compounded work.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	RDS Projects Ltd. is a Civil Construction Contractor and a builder having TIN Registration 320720 44972. During the year 2007-08 the dealer had remitted tax at compounded rate at 4% for all contracts except the contract work of Lulu Shopping Mall, awarded by M/s. Geo Foundations and Structure Pvt.Ltd. As per Form 13 & 13A and revised annual return, for the year 2007-08, total contract receipt is Rs. 63,74,09,988/- and exemption claimed u/rule 10 was Rs.62,94,278/-. The exemption claimed was for the turnover of non-compounded work awarded by Geo-Foundations and Structures Pvt.Ltd. only. During the year 2007-08 non-compounded turnover is Rs.12,15,70,712/- and exemption for labour and other charges under rule 10(2) (b) was Rs.62,94,278/-. The dealer had separately computed non-compounded turnover and tax. In the audit objection, total contract receipt was specified as Rs.6158.60 lakhs and treated entire receipt under compounded method under section 8(a) of KVAT. It is against facts. During the year the dealer had both compounded work and non-compounded work.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	-
(d)	Modification in the schemes and programmes including financing pattern	-
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	-

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Irregular grant of exemption
	(c)	Paragraph No.	2.11.7.3(a)
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	M/s KMC construction Ltd as assessee on the rolls of CTO (WC) Mattancherry who opted for payment of tax under the compounding scheme did not remit the tax due on goods valued Rs.6.41 crore purchased interstate and transferred through works contract during the year 2009-10. This resulted in non remittance of tax Rs.60.57 lakh (including interest)
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>M/s EMC Constructions Ltd M/s EMC Constructions has opted for payment of tax under the compounding scheme u/s 8 of the KVAT Act for the year 2009-10. The audit objection in respect of the assessee for the year 2009-10 is that, the assessee has effected an interstate purchase of Rs.6.41 crores and had not remitted the tax due under section 8(ii) of the KVAT Act. Also requested to report details of Rs. 31.58 lacs shown as OPT due on 'others'.</p> <p>The case was examined in the light of returns and other documents. As per the revised return filed by the assessee, the total contract receipt for the year 2009-10 was Rs.878232470/-. Exemption claimed against form 20H was on a turnover of Rs.24372497/-. Interstate purchase turnover was for Rs.65626388/-. Of the interstate purchase turnover of Rs.39099168/- was taxable @ 4% and Rs.26527220/- was taxable @ 12.5%. Balance turnover of Rs.788233585/- was taxable @ 3%. Accordingly, the liability of the contractor was fixed as under:</p> <p>Total contract receipt : Rs. 878232470 Sub contract proved : Rs. 24372497 Taxable contract receipt: Rs.853859973</p> <table border="1" data-bbox="437 718 937 969"> <thead> <tr> <th></th> <th>Turnover</th> <th>Tax due with interest</th> </tr> </thead> <tbody> <tr> <td>Interstate purchase turnover taxable @4%</td> <td>Rs.39099168</td> <td>Rs.1563967</td> </tr> <tr> <td>Interstate purchase turnover taxable @12.5%</td> <td>Rs.26527220</td> <td>Rs.3315903</td> </tr> <tr> <td>Contract receipt taxable @3%</td> <td>Rs.788233585</td> <td>Rs.23647008</td> </tr> <tr> <td>Total</td> <td>Rs.853859973</td> <td>Rs.28526678</td> </tr> <tr> <td>Cess @1%</td> <td>-</td> <td>Rs.285269</td> </tr> <tr> <td>Total due</td> <td></td> <td>Rs.28812417</td> </tr> </tbody> </table> <p>The dealer paid Rs.28801458.00 and balance to be paid Rs.10689.00</p>		Turnover	Tax due with interest	Interstate purchase turnover taxable @4%	Rs.39099168	Rs.1563967	Interstate purchase turnover taxable @12.5%	Rs.26527220	Rs.3315903	Contract receipt taxable @3%	Rs.788233585	Rs.23647008	Total	Rs.853859973	Rs.28526678	Cess @1%	-	Rs.285269	Total due		Rs.28812417
	Turnover	Tax due with interest																					
Interstate purchase turnover taxable @4%	Rs.39099168	Rs.1563967																					
Interstate purchase turnover taxable @12.5%	Rs.26527220	Rs.3315903																					
Contract receipt taxable @3%	Rs.788233585	Rs.23647008																					
Total	Rs.853859973	Rs.28526678																					
Cess @1%	-	Rs.285269																					
Total due		Rs.28812417																					
(b)	Recovery of overpayment pointed out by audit																						

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

Action taken Notes on CA AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Irregular grant of exemption
	(c)	Paragraph No.	2.11.7.3 (b) (1)
	(d)	Report No. and Year	CAAG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/ Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	In the case of M/s.Swaraj Builders for the years 06-07 to 09-10 (WC, Trichur) tax was computed on the contract receipt after deducting labour charges there on instead of on the whole contract receipt. Short levy is worked to Rs.9.34 lakhs including interest.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Based on the defects pointed out by the Accountant General the assessment in respect of M/s Swaraj Builders, Thrissur for the years 2006-07, 2007-08, 2008-09 and 2009-10 were completed vide Order dated 20.03.2012, creating addl. demand of Rs.9.34 lakhs as below:</p> <table border="1" data-bbox="508 420 849 551"> <thead> <tr> <th>Year</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>06-07</td> <td>2.97 lakhs</td> </tr> <tr> <td>07-08</td> <td>2.57 lakhs</td> </tr> <tr> <td>08-09</td> <td>1.38 lakhs</td> </tr> <tr> <td>09-10</td> <td>2.42 lakhs</td> </tr> <tr> <td>Total</td> <td>9.34 lakhs</td> </tr> </tbody> </table> <p>The dealer filed appeal before the AC(A), Trichur, which was dismissed by the first appellate authority. The assessee filed second appeal before the STAT, Ernakulam. The STAT, Ernakulam had also dismissed the appeal. Then the assessee approached the Hon'ble High Court of Kerala and filed TRC. The Hon'ble High Court remanded the assessment as per order No.OTS Rev 130/13 dt.31.3.14, directing the assessing authority to verify the nature of contract whether it was composite contract or labour contract. In the light of the above directions the assessing authority verified the books of accounts and agreement and found that the contract involved is the work of earth filling, earth excavation, plastering of building etc. which are purely labour work in nature. The CCT vide clarification order No.C3-24232/13/CT dtd.20.11.13 has clarified that no tax u/s 8 can be levied on a work on which no tax is payable u/s 6.</p>	Year	Amount	06-07	2.97 lakhs	07-08	2.57 lakhs	08-09	1.38 lakhs	09-10	2.42 lakhs	Total	9.34 lakhs
Year	Amount													
06-07	2.97 lakhs													
07-08	2.57 lakhs													
08-09	1.38 lakhs													
09-10	2.42 lakhs													
Total	9.34 lakhs													
(b)	Recovery of overpayment pointed out by audit													
(c)	Recovery of under assessment, short levy or other dues	--												
(d)	Modification in the schemes and programmes including financing pattern	--												

	<p>(e) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit</p>	
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Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Irregular grant of exemption
	(c)	Paragraph No.	2.11.7.3 (b) (3)
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Verification of assessment file of M/s. Soj Associates 2008-09 reveals that tax was computed on the contract receipt after deducting labour charges there on instead of on the whole contract receipt. Short levy : Rs. 2.47 lakh
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Soi Associates 2008-09</p> <p>The exemption claimed for the year 2008-09 for Rs.69,77,000/- relates to contract receipt from labour contract work awarded by Jewel Homes (P) Ltd, Enakulam. It is to be noted that the dealer is paying tax under Section 8(a) (1) and not under Section 6(1)(f) of the KVAT Act 2003. The dealer has labour contract as well as material, contract. The dealer purchases materials for the non-labour contract and the dealer pay tax as and when the payments are received (contract receipts) from the awarder as the dealer opted for compounding under Section 8(a)(i) of KVAT Act. The purchase of materials will be considered only when the assessment is made under section 6(1)(f) of the KVAT Act. In this case there is no tax evasion. The CCT vide order NoC3-24232/13/CT dt.20.11.13 has clarified that no tax under sec.8 can be levied on a work on which no tax is payable under section 6.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to irregular grant of exemption
	(c)	Paragraph No.	2.11.7.3(IV)(2)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	It was observed that tax was computed on the contract receipt after deducting labour charges thereon instead of on the whole contract receipt resulting in short computation of tax and interest of Rs.1.96 lakhs.
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	
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	

VI

Remedial action taken

			<u>Geogy George (08-09), CTO (WC), Palakkad</u>
(a)	Improvement in system and procedures, including internal controls.		The dealer had filed annual return for the year 08-09 conceding total and taxable turnover of Rs.5,31,70,984/- and claimed exemption for Rs.54,47,422/-. As the dealer opted for payment of tax under the compounding scheme, the exemption claimed is irregular. Hence the return filed by the dealer was rejected and the assessment was completed to the best of judgment as per order dtl.1.11.11 demanding balance amount of tax of Rs.1,30,180/-.
(b)	Recovery of overpayment pointed out by audit		
(c)	Recovery of under assessment, short levy or other dues	--	
(d)	Modification in the schemes and programmes including financing pattern	--	
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit.	--	

Action taken Notes on CA AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to irregular grant of exemption
	(c)	Paragraph No.	2.11.7.3(b)7
	(d)	Report No. and Year	CA AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	It was observed that tax was computed on the contract receipt after deducting labour charges thereon instead of on the whole contract receipt resulting in short computation of tax and interest of Rs.3.57 lakhs.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The assessee has been engaged in the construction of road works with PWD and certain other works with awarders like Idea, Indux and Reliance etc. The schedule of Sales Tax Certificate issued by PWD was verified. PWD had deducted tax from the whole contract amount. The contract amount includes provision for Department materials, Sales Tax, Income Tax and Welfare Fund. PWD issued final bill for Rs.4,29,30,597/- and deducted tax @ 3.03%. The contract amount from PWD is

			<p>Ra.4,29,30,597/- and that from private awarders is Ra.3,41,57,961. The material supply from the Department is Ra.1,01,50,010/- The final bill amount includes the amount for material supplied from the department, and tax is deducted for this material supply also. Thus tax is deducted for the whole contract amount. In this case there is no short levy.</p>
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	

VI

Remedial action taken

(a)	Improvement in systems and procedures, including internal controls.	<p><u>Sony Mathew Palathara 08-09 (in the audit report shown as Sanoj Mathew) - CTO (WC), Kottayam</u></p> <p>The assessee has been engaged in the construction of road works with PWD and certain other works with awarders like Idea, Indux and Reliance etc. The schedule of Sales Tax Certificate issued by PWD was verified. PWD had deducted tax from the whole contract amount. The contract amount includes provision for Department materials, Sales Tax, Income Tax and Welfare Fund. PWD issued final bill for Rs.4,29,30,597/- and deducted tax @ 3.03%. The contract amount from PWD is Rs.4,29,30,597/- and that from private awarders is Rs.3,41,57,961. The material supply from the Department is Rs.1,01,50,010/- The final bill amount includes the amount for material supplied from the department, and tax is deducted for this material supply also. Thus tax is deducted for the whole contract amount. In this case there is no short levy.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to irregular grant of exemption
	(c)	Paragraph No.	2.11.7.3(b)8
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Dist of Paragraph/Review	It was observed that tax was computed on the contract receipt after deducting labour charges thereon instead of on the whole contract receipt resulting in short computation of tax and interest of Rs.3.93 lakhs.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support.	The contractor has opted for annual compounding u/s 8(a) of the Act. The Contractor claimed exemption as labour for an amount of Rs.1,11,85,996/- For these contract receipts no material transfer is involved. As per agreements no material transfer involved and purely labour contract. Though as per section 8(a)(i) of the KVAT Act 2003, the assessee had to pay at 3% of the whole contract amount, the turnover in respect of purely a

			labour contract will not form part of the turnover of the contractor. So the contractor is not liable to pay tax on the turnover of the labour contracts. Hence the audit objection is not sustainable.
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	

VI

Remedial action taken

	(a)	Improvement in system and procedures, including internal controls.	<p><u>South Indian Foundation (08-09) CTO (WC), Kottayam</u></p> <p>The contractor has opted for annual compounding u/s 8a(i) of the Act. The Contractor claimed exemption as labour for an amount of Rs.1,11,85,996/- For these contract receipts no material transfer is involved. As per agreements no material transfer involved and purely labour contract. Though as per section 8(a)(i) of the KVAT Act 2003, the assessee had to pay at 3% of the whole contract amount, the turnover in respect of purely a labour contract will not form part of the turnover of the contractor. So the contractor is not liable to pay tax on the turnover of the labour contracts. Hence the audit objection is not sustainable.</p>
	(b)	Recovery of overpayment pointed out by audit	
	(c)	Recovery of under assessment, short levy of other dues	--
	(d)	Modification in the schemes and programmes including financing pattern	--
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit.	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to irregular grant of exemption
	(c)	Paragraph No.	2.11.7.3(c)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/ Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	Since the Department is fully computerized and returns are filed online, Government may consider building a validation in the software to ensure that the works contractors opting for compounding are not permitted to claim any deduction other than for payment to sub contractors.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	The AG has observed that the KVATIS may be modified to ensure that the software does not permit work contractors opting for compounding to claim any deduction other than for payment to sub contractors. The online electronic form for works contractors filing return in Form 10B does not provide for any deductions other than for sub contracts.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(a)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	It was noticed that in the case of an assessee opting for payment of tax under the compounding scheme, the contract receipts returned was much lesser than that accounted which resulted in short remittance of tax and interest of Rs.0.73, Rs.1.99 and Rs.4.67 lakhs for the year 05-06, 06-07 and 08-09 respectively.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The actual contract receipt and advance received were conceded in the annual return, and paid tax at compounded rate under section 8(a) (1). In the Profit and Loss account the amount specified as income recognized, not as income or contract amount received. The difference as per annual return.

			and the Trading and P&L Account is due to the accounting method followed by the dealer.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Jayakrishnan.N., Jayakrishnan & Co., Krishna Kripa, C.P. Ummer Road, Kochi is a Civil Contractor engaged in the construction of Civil Structures and also Builder. During the year 2005-06, 2006-07, 2007-08, the actual contract receipt and advance received were conceded in the annual return, and paid tax at compounded rate under section 8(a) (1). In the Profit and Loss account the amount specified as income recognised not as income of contract amount received. The difference as per annual return and the Trading and P&L Account is due to the accounting method followed by the dealer.</p> <p>The amount shown in Profit and Loss account is income recognized as per Accounting Standard 7.a. The assessee dealer adopted computation of income on the basis of percentage of completion method. In compounding method under section 8(a) of KVAT Act, the tax is computed on the basis of total receipt during the year. The gross amount of contract is the total contract amount of the project. The completion period may span over two to three years. In the case of construction of Flat or Villa Projects the time of completion may be extended upto 5 to 7 years. The advance received for flats is treated as contract receipts. But it will not be shown as contract income in P&L Account since percentage of income recognized is shown as income. The advance is shown as liability in the Balance Sheet. The advance is shown as contract income in P&L Account. Hence the difference could not be considered as escapement of turnover or evasion of tax.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	

	(d)	Modification in the schemes and programmes including financing pattern	
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C& AG's Reports

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4 (a) (3)
	(d)	Report No. and Year	C& AG Report ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	11.8.11
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	The audit is that as per the statement of particulars in Form 13A, for the year 2006-07, the balance cost of ongoing contract is Rs.17,19,85,719. But in the statement of particulars for the year 2007-08, i.e. for the next year the opening cost of ongoing work is Rs.3,44,11,600.00 only and thus there is a probable non disclosure of contract receipts Rs.13,75,74,119.00, resulting in short levy of tax and interest Rs.40.17 lakh.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The difference of 66 contracts for which no receipts for construction received during 06-07 were not treated as on going contracts but shown as new contracts in 07-08 statement of particulars. This has caused the difference in the figures.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>N.J.K Builders (P) Ltd. (06-07 & 07-08)</p> <p>The objection of the Accountant General (Audit) is that the total turnover conceded in the annual return and that shown in the profit and loss account differ for the years 2006-07 and 2007-08. Difference is not reconciled and hence escaped assessment.</p> <p>The assessee is a contractor engaged in the construction of civil structure and also a builder. The assessee has opted for compounding under Section 8(a)(i). The assessee has conceded the actual contract receipt and advance received during the year 2006-07 and 2007-08 in the annual return and Form 13,13A. No difference in turnover exists between annual return and Form 13,13A.</p> <p>As per the return and 13,13A for the year 2006-07 contract receipt is Rs.471.31 lakh but that as per profit and loss accounts is Rs.621.21 lakh. So also, as per the return and 13, 13A for the year 07-08, contract receipt is Rs.489.73 lakh but that as per the Profit and loss accounts is Rs.682.59 lakh. The AG has considered the turnover as per profit and loss account for both the years.</p> <p>The turnover under profit and loss account cannot be taken as the actual receipt for reason under.</p> <p>The amount shown in profit and loss account is income recognized as per accounting standard 7. It is based on the estimate of income on the basis of completion method. It is adopted for income tax purpose. It does not reflect the actual receipt of income including advance payment. In compounding method the assessee remitted tax on the basis of receipts. So, the actual receipts of the contractor is the turnover shown in part V col.no.12 of 13, 13A and this amount agree with the turnover in the annual return for the year 06-07 & 07-08.</p> <p>If there is difference between figures in annual return and Form 13,13A reconciliation is required and the higher amount can be considered for assessment. In this case no difference exists between the figures in Annual return and Form 13,13A.</p>
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(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to turnover escaped assessment
	(c)	Paragraph No.	2.11.74 (a) (3)
	(d)	Report No. and Year	C& AG Report ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	11.8.11
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	The audit is that as per the statement of particulars in Form 13A, for the year 2006-07, the balance cost of ongoing contract is Rs.17,19,85,719. But in the statement of particulars for the year 2007-08, i.e. for the next year the opening cost of ongoing work is Rs.3,44,11,600.00 only and thus there is a probable non disclosure of contract receipts Rs.13,75,74,119.00, resulting in short levy of tax and interest Rs.40.17 lakh.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The difference of 66 contracts for which no receipts for construction received during 06-07 were not treated as on going contracts but shown as new contracts in 07-08 statement of particulars. This has caused the difference in the figures.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>M/s. Asset Homes Pvt. Ltd. - CTO (WC), Ernakulam</p> <p>The audit is that as per the statement of particulars in Form 13A, for the year 2006-07, the balance cost of ongoing contract is Rs.17,19,85,719.00. But in the statement of particulars for the year 2007-08, i.e. for the next year the opening cost of ongoing work is Rs.3,44,11,600.00 only and thus there is a probable non disclosure of contract receipts Rs.13,75,74,119.00.</p> <p>This has been verified by the assessing authority the total contract amount as per Part V of Form 13A for the year 2006-07 is Rs.17,88,00,000.00. This is the cost of works contract for 79 apartments. Out of which, contract receipts for construction over and above the land value receipts were in 13 cases only which is Rs.68,14,281.00. The balance cost of works contract is shown as Rs.17,19,85,719.00 in the statement of particulars for 2006-07. But in the statement of particulars for 2007-08, the total contract amount pending as on 01.04.2007 is shown as Rs.3,44,11,600.00 for 13 contracts. It has been specifically mentioned the number of contracts as 13. The assessee replied that the above amount of Rs.3,44,11,600.00 relate to this 13 contracts only, for which works contract receipts (excluding land value) received. But in 2006-07 statement of particulars, the balance shown as Rs.17,19,85,179.00 for the total 79 contracts. The difference of 66 contracts for which no receipts for construction received during 2006-07 were not treated as ongoing contracts but shown as new contracts in 2007-08 statement of particulars. This has caused the difference in the figures.</p> <p>The balance cost of works contract Rs.17,19,85,119.00 shown in 2006-07 is reconciled as under.</p> <table data-bbox="462 909 989 1136"> <tr> <td>Total contract amount</td> <td>Rs.17,88,00,000.00</td> </tr> <tr> <td>Less contract amount received during 06-07</td> <td>Rs. 68,14,281.00</td> </tr> <tr> <td>balance cost of works contract</td> <td>Rs.17,19,85,719.00</td> </tr> <tr> <td>Contract cancelled during 2007-08</td> <td>Rs. 6,21,01,126.00</td> </tr> <tr> <td>Customers transferred to other projects</td> <td>Rs. 88,88,000.00</td> </tr> <tr> <td>Value of contracts included in 2007-08 as new contracts</td> <td>Rs. 6,65,84,993.00</td> </tr> <tr> <td>Shown as opening works contract as on 01.04.2007</td> <td>Rs. 3,44,11,600.00</td> </tr> <tr> <td></td> <td><u>Rs.17,19,85,719.00</u></td> </tr> </table> <p>Hence there is no omission of contract receipts amounting to Rs.13,75,74,119.00 as suspected by the audit.</p>	Total contract amount	Rs.17,88,00,000.00	Less contract amount received during 06-07	Rs. 68,14,281.00	balance cost of works contract	Rs.17,19,85,719.00	Contract cancelled during 2007-08	Rs. 6,21,01,126.00	Customers transferred to other projects	Rs. 88,88,000.00	Value of contracts included in 2007-08 as new contracts	Rs. 6,65,84,993.00	Shown as opening works contract as on 01.04.2007	Rs. 3,44,11,600.00		<u>Rs.17,19,85,719.00</u>
Total contract amount	Rs.17,88,00,000.00																	
Less contract amount received during 06-07	Rs. 68,14,281.00																	
balance cost of works contract	Rs.17,19,85,719.00																	
Contract cancelled during 2007-08	Rs. 6,21,01,126.00																	
Customers transferred to other projects	Rs. 88,88,000.00																	
Value of contracts included in 2007-08 as new contracts	Rs. 6,65,84,993.00																	
Shown as opening works contract as on 01.04.2007	Rs. 3,44,11,600.00																	
	<u>Rs.17,19,85,719.00</u>																	

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

VI

Remedial action taken

	(a)	Improvement in system and procedures, including internal controls.	<u>Hotel Golds (08-09), CTO, Nedumangad</u> In the light of the audit observation, the assessing authority has rectified the defects u/s 43 of KGST Act and fresh orders have been issued to the dealer directing to remit short levy of Rs.3,62,088/- as pointed out by the Accountant General. Subsequently, the amount has been advised for Revenue Recovery.
	(b)	Recovery of overpayment pointed out by audit	
	(c)	Recovery of under assessment, short levy or other dues	--
	(d)	Modification in the schemes and programmes including financing pattern	--
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(a)3
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	It was noticed that in the case of an assessee opting for payment of tax under the compounding scheme, the contract receipts returned was much lesser than that accounted which resulted in short remittance of tax and interest of Rs.40.17 lakhs.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	No where in the records to show that the contract receipts were Rs.1443.88 lakhs as mentioned in the audit report. Hence the observation that contract receipt accounted is Rs.1443.88 lakh is not correct.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The audit is that the contract receipt returned under compounding scheme was much lesser than that accounted by the assessee M/s. Asset Homes (P) Ltd. It is stated by the audit that the contract receipts of the assessee during the year 2006-07 was Rs.1443.88 lakhs and returned only Rs.68.14 lakhs resulting in a short levy of Rs.40.17 lakhs.</p> <p>On perusal of the Final Accounts and Audit Report in Form 13 A, the trade results of the assessee is as follows:</p> <p>On going contracts Nil New contracts 5 Nos. Amount involved : 17,88,00,000 in the above Receipts from the above : 68,14,281 Certified income as per P & L : Nil Work in progress : 50,23,798.36 Balance cost of works : 17,19,85,719 contract Ongoing (17,88,00,000 6814281)</p> <p>No where in the records to show that the contract receipts were Rs.1443.88 lakhs as mentioned in the audit report. Hence the observation that contract receipt accounted is Rs.1443.88 lakh is not correct.</p> <p>However, in Audit Enquiry No. 26 issued for the year 2007-08 regarding the irregular sub - contract claim, the following observation was made by the audit regarding the cost of works contract carried forward from the year 2006-07 to the year 2007-08 as detailed below:</p> <p>"According to part V of the statement of Accounts in Form 13 A, the balance cost of works contract ongoing is Rs.17,19,85,719.00 as on 31.03.2007. But as per Form 13 A filed for the year 2007-08, the opening cost of works contract as on 01.04.2007 is only Rs.3,44,11,600.00. In that case, there is probable non-disclosure of contract receipt amounting to Rs.13,75,74,119.00 with tax effect of</p>
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			Rs.27,51,482.00 @ 2%. Hence the assessment has to be revised for the above defect. But no evidence regarding the receipt of 1443.88 lakhs as pointed out in the audit.
	(b)	Recovery of overpayment pointed out by audit	
	(c)	Recovery of under assessment, short levy or other dues	--
	(d)	Modification in the schemes and programmes including financing pattern	--
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(a)4
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/ Review	It was noticed that in the case of an assessee opting for payment of tax under the compounding scheme, the contract receipts returned was much lesser than that accounted which resulted in short remittance of tax and interest of Rs.2.41 lakhs.
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	
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	

VI

Remedial action taken

	(a) Improvement in system and procedures, including internal controls.	<p>Sri.Moosakutty, Moothedath House, Morayur, Malappuram is a contractor in the execution of Civil Works and is a registered dealer bearing TIN-32479251011.</p> <p>The assessee filed annual return and audited statements in Form 13 & 13A for the year 07-08. While auditing, Accountant General observed that the dealer has received sub-contract amount of Rs.46,53,347/-. This was not included in the annual return filed for the year and tax on the above amount not seen paid. Hence the assessing officer issued notice proposing to assess the amount received by the dealer by way of sub-contract and called for objections if any. The dealer filed his objections stating that the Principal awardee, the Chairman of Programme implementation Unit of PMGSY had deducted the tax due from the gross contract amount of Rs.5244155/- and balance Rs.4653347/- been released to Sri.E.Ummer Bava for executing the work and copy of certificate obtained by awardee is also filed. Sri.E.Ummer Bava in turn entrusted the work to Sri.K.Moosakutty and hence there is no tax liability. The contention of the assessee was not accepted in the light of explanation II to Sec.8(a) read with Rule 11(4) of the KVAT Act & Rules, which clearly states that the liability of the sub-contract should be on the shoulders of the sub-contractor himself and if he remits the tax due, the main contractor can avail exemption for the above turnover from his turnover by receiving 20H Certificate from the sub contractor. But in this case it is stated that he had not issued 20H Certificate to the main contractor. In the absence of the above, the principal awardee had deducted the tax from the main contractor Sri.E.Ummer Bava. The principal awardee has not remitted any tax for the sub contract done by the assessee.</p> <p>The assessment was completed on 14.6.11 and a sum of Rs.209144/- being tax and Rs.79475/- being interest is demanded.</p> <p>On receipt of the order the dealer has approached</p>
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			Government for cancellation of the assessment stating that the assessment is illegal as it amounts to double taxation. The awarder has deducted the tax and paid over to the state and has not claimed refund. Hence there is no loss of revenue in this case.
	(b)	Recovery of overpayment pointed out by audit	
	(c)	Recovery of under assessment, short levy or other dues	--
	(d)	Modification in the schemes and programmes including financing pattern	--
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C&AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Irregular grant of exemption
	(c)	Paragraph No.	2.11.7.4(a)(5)
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para./Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Works contractor while opting for payment of tax under the compounding scheme, the contract receipt returned was much lesser than that accounted. Short levy is worked out to Rs.23.50 lakhs.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>Thalassia Engineering (2008-09)</u> The assessment was completed under Section 25(1) of the KVAT Act vide Order No.32051696152/2008-09 dtd. 28.03.13 creating additional demand of Rs.4107.10/- towards tax and Rs.1971605/- towards interest. RRC was issued to IAC Ernakulam for recovering the amount due. The DC(A) stayed the collection of disputed amount for the year 2008-09 as per Order No.KVATA 1332/2013 dated 28.10.2013 on condition that the appellant should remit 50% of the demand and furnish adequate security for the balance amount. The assessee filed stay petition before the Hon'ble High Court against the order of the Deputy Commissioner (Appeals). As per Order No.WP(C 28061/13(G) dated 21.11.2013, the Hon'ble High Court had directed the assessee to deposit one third of the total amount demanded and to furnish security for the balance to the satisfaction of assessing authority within one month. The assessee remitted only Rs.8 lakhs as per DD No.78643 dated 29.05.2014 of Bank of Baroda. The assessee has not fulfilled the conditions of the High Court. This matter has been intimated to IAC, Ernakulam for collection of balance amount through RR.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C&AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(a)(6)
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	From the annual return filed in the case of Wexco Homes (P) Ltd, for this year 08-09 conceded contract receipt of Rs.850.33 lakh. But as per the accounts the contract receipt was Rs.1837.39 lakh. Short levy Rs.80.39 lakh.
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	

VI.

Remedial action taken

(a)	Improvement in system and procedure, including internal controls.	<p>As per annual return filed by the dealer for the year 07-08 contract receipt was Rs.111084311. But as per accounts it was shown as Rs.184933481 which is the cumulative income of 06-07 and 07-08. Hence the difference. As per column No.12 of part V of 13A statement receipt for 07-08 was Rs.111084311. This figure agree with the turnover conceded as per return.</p> <p>For the year 08-09 AG has also pointed out the difference in contract receipt conceded in the annual return and certified accounts. As per the annual return, the income is Rs.987.06 lakh, but that in certified account, it was Rs.1837.39 lakhs. But in that year also dealer has shown the cumulative income of 06-07, 07-08 and 08-09 in the P&L accounts. Hence the difference. As per column No.12 of part 5 of 13A statement receipt is Rs.987.56 lakh and not Rs.1837.39 lakh. So actually there is no short levy.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(a)(7)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	It was noticed that in the case of an assessee opting for payment of tax under the compounding scheme, the contract receipts returned was much lesser than that accounted which resulted in short remittance of tax and interest of Rs.8.06 lakhs.
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	
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>Home Basics (08-09), CTO (WC), Kottayam</u></p> <p>A notice u/s 25(1) of the KVAT Act 2003 was issued to the dealer and the dealer replied that the taxable turnover returned in the annual return Rs.1,17,06,062/- is the actual amount received from the contractors in the year 08-09. As per accounting system the receipt mentioned in the P&L Account is purely sales amount. From sales amount only the firm can calculate the profit. But on the other hand receipt from the contractors are accounted as advance and it is reflected in Balance Sheet as liability. After executing the sales deed of a party, reduce the advance amount from the sale amount and the party will remit the balance amount if any. Every year the advance received amounts are accounted in the advance account and the figure explained in the balance sheet as advance is not the current year advance receipts. It is actually opening figure of advance amount of the last year plus current year advance minus sales executed figure of each party. So the advance amount in the balance sheet is not the advance amount for the current year.</p> <p>Proceedings u/s 25(1) was issued rejecting the above explanation as per order dtd.20.6.2011.</p> <p>The appeal filed against the above assessment is pending disposal.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--

(c)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	
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Action taken Notes on C&A AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(a)(8)
	(d)	Report No. and Year	C&A report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	From the annual return filed in the case of a works contractor opting for payment of tax under the compounding scheme, the contract receipts returned was much lesser than that accounted. Short levy worked out is Rs.3.02 lakh.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>Shaji Mathew (2007-08)</u> On the basis of audit objection, assessment was completed U/s 25(1) as per Order No.32051683315/- 2007-08 dated 04.04.2010 creating additional demand of Rs.2,29,201 towards tax, Rs.57300 towards interest and Rs.1,14,600 towards penal interest. The assessee filed appeal against the order before the Deputy Commissioner (Appeals), Kollam. As per Order No.KVATA 270-A/10 dated 30.09.2010, the DC(Appeals), Kollam directed the assessing authority to modify the assessment, by verifying the TDS effected. Accordingly, assessing authority verified the TDS claim and found that the assessee had already paid TDS amounting to Rs.2464295/- and this is @ 3% tax on the contract receipt of Rs.12.32 crore as per the certified accounts. Hence the audit observation is liable to be dropped.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(a)(9)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	It was noticed that in the case of an assessee opting for payment of tax under the compounding scheme, the contract receipts returned was much lesser than that accounted which resulted in short remittance of tax and interest of Rs.224.06 lakhs.
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	
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.	

VI

Remedial action taken

(a)	Improvement in systems and procedures, including internal controls.	<p><u>Hilite Builders (08-09), CTO (WC), Kozhikode</u></p> <p>While auditing, the Accountant General has pointed out that the balance sheet of the assessee shows an amount of Rs.49,12,14,974/- as advance from buyers which was not assessed to tax. The finding of the Accountant General was that although the assessee had received Rs.49,12,14,974/- as advance during the year 08-09, they have reported a turnover of Rs.24.58 crores only as taxable. The Accountant General has pointed out that Rs.24,50,02,036/- has escaped assessment. The actual figures as per the Trading, Profit & Loss account is Rs.24,54,02,036/-. Hence a compounded tax of Rs.19632163 + cess of Rs.196321 and an interest of Rs.2577703/- upto 5/2010 was due from them.</p> <p>On subsequent verification of the assessment records it was noticed that audit is sustainable and the assessment for 08-09 was reopened and revised as per order dtd.11.10.11 demanding a tax of Rs.3,22,42,039/ and an interest of Rs.99,95,032/-.</p> <p>The assessee has already paid compounded tax @ 3% on the reported turnover of Rs.24,58,12,938/- (i.e. Rs.73,74,388/- as tax and Rs.73,744/- as cess). Balance tax due @ 5% on this turnover is Rs.1,22,90,647/- as tax and Rs.122906/- as cess. Turnover escaped assessment is Rs.24,54,02,036/-. Tax due @ 8% on this amount is Rs.1,96,32,163/- and cess due is Rs.1,96,322/- . Balance tax and cess due is Rs.3,22,42,039/-.</p> <p>The dealer has filed appeal against the assessment order. The recovery of the balance amount is stayed by the Hon'ble High Court of Kerala on condition that the dealer make a payment of lumpsum amount of Rs:1 crore.</p>
(b)	Recovery of overpayment pointed out by audit	

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

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(a)(10)
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
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 objection in this case is that M/s JVN properties during the year 2008-09 has conceded contract receipt in the Annual return for an amount of Rs.96,87,425/-. Where as in the Balance sheet, the contract income conceded is Rs.1,58,42,000/- and pointed out the escapement of income of Rs.61,55,000/-. Short levy is worked to Rs.2.23 lakhs.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Based on audit observation, the case was examined in the light of books of accounts produced by the assessee. Verification of accounts revealed that the gross contract receipt for the year 2006-07 was Ra.305000. The contract receipt for 07-08 was Ra.5812238 and that for the year 08-09 was Ra.9630120. Accordingly, the total contract receipt for the above 3 years together comes to Ra.15747358. Besides, the amount of Ra.94642 was also receivable during 08-09. The figure of Ra.15842000 represent the total contract receipt for 06-07 to 08-09 and the receivable for 08-09.</p> <p>The contract receipt for 06-07 and 07-08 has already self assessed by the contractor. Therefore, the contract receipt pertaining to the year 08-09 was Ra.9630120 and not Ra.15842000 as stated by audit.</p> <p>Details of contract receipt for 06-07, 07-08 and 08-09 are given below.</p> <table border="1" data-bbox="340 525 952 815"> <thead> <tr> <th>Sl. No.</th> <th>Name</th> <th>2006-07</th> <th>LF No.</th> <th>2007-08</th> <th>LF No.</th> <th>2008-09</th> <th>Amount Due</th> <th>Total</th> <th>Sam Work</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Sanjay S</td> <td>60000</td> <td>22</td> <td>1540000</td> <td></td> <td></td> <td></td> <td>1600000</td> <td></td> </tr> <tr> <td>2</td> <td>Sally Dominic</td> <td>60000</td> <td>28</td> <td>1801800</td> <td></td> <td></td> <td>180180</td> <td>1981800</td> <td></td> </tr> <tr> <td>3</td> <td>Sudhansu P</td> <td>60000</td> <td>39</td> <td>1175000</td> <td></td> <td></td> <td></td> <td>1235000</td> <td></td> </tr> <tr> <td></td> <td>Total of the year</td> <td>180000</td> <td></td> <td>3516800</td> <td></td> <td></td> <td>180180</td> <td>3698680</td> <td></td> </tr> <tr> <td>4</td> <td>Amal Electric Appliances</td> <td></td> <td>2</td> <td>808350</td> <td>1</td> <td>200300</td> <td>71785</td> <td>2761650</td> <td></td> </tr> <tr> <td>5</td> <td>Sanjay</td> <td></td> <td>2</td> <td>1000000</td> <td>2</td> <td>1530000</td> <td></td> <td>2530000</td> <td>21572</td> </tr> <tr> <td>6</td> <td>M K George</td> <td>180000</td> <td>27</td> <td>2587400</td> <td></td> <td></td> <td></td> <td>2767400</td> <td></td> </tr> <tr> <td>7</td> <td>Lata Jyoti</td> <td></td> <td>29</td> <td>800000</td> <td>29</td> <td>1700000</td> <td></td> <td>2500000</td> <td>28783</td> </tr> <tr> <td>8</td> <td>Suresh Mahal</td> <td>60000</td> <td>32</td> <td>1500000</td> <td>32</td> <td>1200000</td> <td>17000</td> <td>3300000</td> <td></td> </tr> <tr> <td>9</td> <td>S K George</td> <td>120000</td> <td>48</td> <td>1411500</td> <td>36</td> <td>350000</td> <td>8000</td> <td>1732000</td> <td></td> </tr> <tr> <td>10</td> <td>All Party</td> <td></td> <td></td> <td></td> <td>1</td> <td>200000</td> <td></td> <td>200000</td> <td></td> </tr> <tr> <td></td> <td>Total of the year</td> <td>360000</td> <td></td> <td>8022300</td> <td></td> <td>340000</td> <td>24422</td> <td>8664522</td> <td>27968</td> </tr> <tr> <td></td> <td>Gross Total</td> <td>600000</td> <td></td> <td>11539100</td> <td></td> <td></td> <td></td> <td>12363122</td> <td></td> </tr> </tbody> </table> <p>In the above circumstances the audit observation may be dropped.</p>	Sl. No.	Name	2006-07	LF No.	2007-08	LF No.	2008-09	Amount Due	Total	Sam Work	1	Sanjay S	60000	22	1540000				1600000		2	Sally Dominic	60000	28	1801800			180180	1981800		3	Sudhansu P	60000	39	1175000				1235000			Total of the year	180000		3516800			180180	3698680		4	Amal Electric Appliances		2	808350	1	200300	71785	2761650		5	Sanjay		2	1000000	2	1530000		2530000	21572	6	M K George	180000	27	2587400				2767400		7	Lata Jyoti		29	800000	29	1700000		2500000	28783	8	Suresh Mahal	60000	32	1500000	32	1200000	17000	3300000		9	S K George	120000	48	1411500	36	350000	8000	1732000		10	All Party				1	200000		200000			Total of the year	360000		8022300		340000	24422	8664522	27968		Gross Total	600000		11539100				12363122	
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Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(a)(11)
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Glnt of Paragraph/Review	From the annual return filed in the case of M/s Pantark Builders and Developers for the year 2008-09 opting for payment of tax under the compounding scheme, the contract receipts returned was much lesser than that accounted. Short remittance of tax Rs.18.09 lakh.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>M/s Pantark Builders and Developers for the year 08-09</u> <u>TTN No.</u></p> <p>According to audit the dealer returned Rs.388.36 lakh towards contract receipt during 2008-09. Whereas that as per accounts was Rs.576.49 lakh. Turnover escaped was Rs.188.13 and the short levy is worked to 18.09 lakhs.</p> <p>The above objection was examined by the department and found that the finding of audit is sustainable in view of the circular No.3/10 dt.5.3.10. Hence direction has been issued to complete the assessment as pointed out by the AG.</p>
(b)	Recovery of overpayment pointed out by audit	---
(c)	Recovery of under assessment, short levy or other dues	---
(d)	Modification in the schemes and programmes including financing pattern	---
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	---

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(a)(12)
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	From the annual return filed in the case of M/s.Thriessur Builders (08-09) opting for payment of tax under the compounding scheme that the contract receipts returned was much lesser than that accounted. Short remittance of tax Rs.5.81 lakh.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>M/s.Thriasar Builders (08-09)</u> According to the audit observation the dealer returned Rs.1853.09 lakh, whereas that as per P&L account it was Rs.2014.48 lakh. Escaped turnover is Rs.161.39 lakh with a short levy of Rs.5.81 lakh along with interest.</p> <p>The above findings of audit was examined by the department and found that the para is sustainable in view of circular No.3/10 dt/5.3.10. Hence direction has been issued to complete the assessment on the above lines as pointed out by audit.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to turnover escaped assessment
	(c)	Paragraph No.	2.11.7.4(b)
	(d)	Report No. and Year.	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	Scrutiny of the assessment records revealed that the contractor was issued certificate in form 20E for receiving contract amount of Rs.4.24 crore without TDS from three awarders. However, contract amount returned as received from the said three awarders was Rs.47.90 lakh only. Thereby contract amount of Rs.3.76 crore had escaped assessment. This resulted in short remittance of tax of Rs.11.38 lakh. (@ 3% + cess).
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	In the 20E Certificate issued, gross contract amount was also shown as Amount of Payment Sought. This was an oversight. The actual receipt during the year was much less. The contract amount what was received during 09-10 was declared in the returns filed for 09-10 and tax due thereon was paid.

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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Shri.Mohan Mathew, Neelettu Construction, a works contractor on the rolls of CTO (WC), Kottayam opted for payment of tax under the compounding scheme for the year 09-10 and filed return in form 10E disclosing contract receipt of Rs.4.05 crore. Scrutiny of the assessment records revealed that the contractor was issued certificate in form 20E for receiving contract amount of Rs.423.50 lakh without TDS from three awarders. However, contract amount returned as received from the said three awarders was Rs.47.90 lakh only, thereby contract amount of Rs.375.60 lakh had escaped assessment. This resulted in non remittance of tax Rs.11.38 lakh (@ 3% + cess).</p> <p>The assessing authority has verified the assessment records, also verified the accounts of the contractor which revealed as follows:</p> <p>During 09-10 Certificate in form 20E was issued for a contract amount of Rs.423.50 lakhs against 3 contracts (Awarders).</p> <table border="1" data-bbox="478 744 1037 995"> <thead> <tr> <th>Sl. No.</th> <th>Name of awarder</th> <th>Gross contract amount</th> <th>Amount of payment sought as per 20E</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Jose Chacko, Arackal</td> <td>32500000</td> <td>32500000</td> </tr> <tr> <td>2</td> <td>Paragon Polymer Products</td> <td>9000000</td> <td>9000000</td> </tr> <tr> <td>3</td> <td>Swarnakamal Jewels India Pvt. Ltd.</td> <td>850000</td> <td>850000</td> </tr> </tbody> </table> <p>In the 20E Certificate issued, gross contract amount was also shown as Amount of Payment Sought". This was an oversight. The actual receipt during the year was much less as under.</p>	Sl. No.	Name of awarder	Gross contract amount	Amount of payment sought as per 20E	1	Jose Chacko, Arackal	32500000	32500000	2	Paragon Polymer Products	9000000	9000000	3	Swarnakamal Jewels India Pvt. Ltd.	850000	850000
Sl. No.	Name of awarder	Gross contract amount	Amount of payment sought as per 20E															
1	Jose Chacko, Arackal	32500000	32500000															
2	Paragon Polymer Products	9000000	9000000															
3	Swarnakamal Jewels India Pvt. Ltd.	850000	850000															

Sl. No.	Name of awarder	Amount received during 09-10	Amount received during 10-11
1	Jose Chacko, Arackal	4368135	15934282
2	Paragon Polymer Products	4527665	5669500
3	Swarnakamal Jewels India Pvt. Ltd.	1560889	(completed during 09-10)
The contract amount what was received during 09-10 was declared in the returns filed for 09-10 and tax due thereon was paid. Hence there is no case of cecapement as pointed out in this audit observation.			
(b)	Recovery of overpayment pointed out by audit		
(c)	Recovery of under assessment, short levy or other dues	--	
(d)	Modification in the schemes and programmes including financing pattern	--	
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--	

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Omission to forfeit the illegal tax collection.
	(c)	Paragraph No.	2.11.7.5 (1 to 5)
	(d)	Report No. and Year.	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	It was noticed in audit at CTO (WC), Ernakulam that there was collected tax as evidenced from accounts as well as from the agreement entered into with the awarders, in respect of 5 works contractors who opted for payment of tax u/s 8(a) of the Act. But the assessing authority did not forfeit the amount collected by way of tax and interest Rs.15.42 crores to the Government.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The tax collected mentioned in the Form 13 13A/annual return is actually not the collected tax, but it is the tax element of the transfer value of materials. None of the assesseees have collected any amount from the customers in contravention of the provision of the Act.

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	

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Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p style="text-align: center;"><u>Name of Dealer</u></p> <ol style="list-style-type: none"> 1. Mather Projects 2005-06 to 2007-08 2. Noal Villas 2005-06 to 2007-08 3. Korath Gulf Links 2006-07 & 2007-08 4. Kent Construction 2006-07 & 2007-08 5. Desai Homes 2005-06 to 2007-08 <p>The objection is that the above dealers have collected tax illegally which has to be forfeited to Government Account Failure to do so caused short levy.</p> <p>The objection is not correct. The above assesseees have not collected tax from the customers. The dealers have opted compounded tax payment system for the above years.</p> <p>The collection of tax is explained in section 30 of KVAT Act 2003.</p> <p><u>Collection of tax by dealers</u></p> <p>30(2) Dealers registered under this Act except those dealers paying presumptive tax under section 6(5) and those paying tax under section 8(a) alone shall be eligible to collect tax.</p> <p>Tax is collected through Bills or Invoices. In the case of work contract under compounding the prescribed Form of Bill/Invoice is Form 8D up to 01.01.2008 and Form 8CA from 02.01.2008.</p> <p>In Form 8CA and 8D no column is provided to show the tax and hence tax cannot be collected by the dealers using Form 8D or 8CA. As per section 30 dealer can collect tax through Bills i.e. Bills in Form 8, 8B, 8C etc when such tax is specifically mentioned in particular column of the Bill and collected by the dealers, such collected tax shall be paid by the dealer to Government.</p> <p>In compounded cases, the prescribed Form of Bill is 8D/8CA where in no column is provided for the collection of tax and therefore the dealer/contractor cannot collect tax by raising Bills in form 8D/8CA.</p>
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Moreover without issuing Bills, tax cannot be collected.

The tax collected mentioned in the Form 13 13A/annual return is actually not the collected tax, but it is the tax element of the transfer value of materials.

None of the assesseees have collected any amount from the customers in contravention of the provision of the Act. It is true that in the agreement entered in to with the customers, the following clause is incorporated in the agreement.

"that if any tax including local taxes, sales taxes, one time village building tax contribution towards Construction Workers Welfare Fund Board, all service connection charges for water supply, electricity supply, telephone including related deposits and duties leviable on the constructions deposit for building maintenance for a period not exceeding six months from the date of handing over of the first apartment are liable to be paid for anything done or deemed to be done under this agreement"

The construction of a villa/flat will run to more than one year. Payment under different statutes may depend upon the position of law in existence during every financial year based on the statutory changes brought about in each statute from time to time. In case of certain levies/ duties like charges relating to water supply/ electricity connection, building tax etc the liability is on the building owner (customer) whereas in the case of indirect levies like service tax, sales tax etc, the liability is on the contractor and where the law permits collection, it will be collected in the invoices issued to the customer.

Where the law does not permit such collection, it becomes an enhancement in the cost of construction, which is the practice in the case of all irrecoverable levies. This is a general clause incorporated in every agreement so as to take care of every situation. That does not mean that the builder have collected any tax in the invoices issued to the customers.

In the present case, the Builders have not collected any tax.

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

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Omission to forfeit the illegal tax collection.
	(c)	Paragraph No.	2.11.7.5 (6)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/ Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/ Review	It was noticed in audit at CTO (WC), Pathanamthitta that there was collected tax as evidenced from accounts as well as from the agreement entered into with the awarders, in respect of a works contractor who opted for payment of tax u/s 8(a) of the Act. But the assessing authority did not forfeit the amount collected by way of tax and interest Rs.10.43 lakhs to the Government.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	Verification of statements of accounts and Audit Reports does not reveal any tax collection. No other evidence was forthcoming to prove that the assessee has collected any tax from the 'Awardee'. So there was no reason to order forfeiting the tax collected.

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	

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Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The assessee M/s.Tropicana Reality Developers is a Works Contractor in Civil Work. During the year 2007-08, the assessee opted to pay tax at the compounded rate and paid the tax accordingly. The assessee had filed copies of work agreements.</p> <p>In the agreement, among other things there is a provision incorporated where by the 'awarder' is liable to pay statutory charges. This provision is incorporated on the reason that there may be occasion to collect tax when compounding option is rejected. In such circumstances, the tax can be collected from the awarders. The agreements are executed long before filing option for compounding and hence the provision incorporated. But, inclusion of this provision has no statutory validity. Section 8 does not permit the works contractor to collect tax in case they opted for payment of tax under compounding system. The liability to pay tax rests with the contractor and not to the awarder. When payments are made, the awarder may deduct the tax from the payments made and remit the amount to Government U/s.10 of the KVAT Act 2003. This is done only when the awarder is not authorized to pay the contract amount without having deducted tax amount.</p> <p>Verification of statements of accounts and Audit Reports does not reveal any tax collection. No other evidence was forthcoming to prove that the assessee has collected any tax from the 'Awarder'. So there was no reason to order forfeiting the tax collected.</p> <p>However, on the basis of the audit observation that there is deemed collection of tax which is liable to be forfeited, the assessing authority has called for the books of accounts of the assessee. But he has not produced the same and in its absence and in the interest of revenue, orders have been passed forfeiting the estimated tax together with penalty.</p> <p>The assessee went in appeal before the Deputy Commissioner(Appeals), Kollam and the appellate authority has set-aside the assessment and remanded for fresh disposal vide order No.KVATA/PTA No.337/11</p>
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			<p>dated 18.02.2011 with the observation that the assessing authority finalized the assessment without concrete evidence.</p> <p>In pursuance to the above the books of accounts including copies of the invoices produced were verified by the assessing authority and having found that they have not collected any amount from the awarders by way of VAT, cancelled the order forfeiting the estimated irregular VAT collection.</p>
	(b)	Recovery of overpayment pointed out by audit	
	(c)	Recovery of under assessment, short levy or other dues	
	(d)	Modification in the schemes and programmes including financing pattern	
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Omission to forfeit the illegal tax collection.
	(c)	Paragraph No.	2.11.7.5 (7)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	It was noticed in audit at CTO (WC), Puthanambhitta that there was collected tax as evidenced from accounts as well as from the agreement entered into with the awarders, in respect of a works contractor who opted for payment of tax u/s 8(a) of the Act. But the assessing authority did not forfeit the amount collected by way of tax and interest Ra.7.23 lakhs to the Government.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	Verification of statements of accounts and Audit Reports does not reveal any tax collection. No other evidence was forthcoming to prove that the assessee has collected any tax from the 'Awarder'. So there was no reason to order forfeiting the tax collected.
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	

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Remedial action taken

	<p>(a) Improvement in system and procedures, including internal controls.</p>	<p>The assessee M/s.B-Tech Builders is a Works Contractor in Civil Work. During the year 2007-08, the assessee opted to pay tax at the compounded rate and paid the tax accordingly. The assessee had filed copies of work agreement.</p> <p>In the agreement, among other things there is a provision incorporated where by the 'awarder' is liable to pay statutory charges. This provision is incorporated on the reason that there may be occasion to collect tax when compounding option is rejected. In such circumstances, the tax can be collected from the awarders the agreements are executed long before filing option for compounding and hence the provision incorporated. But, inclusion of this provision has no statutory validity. Section 8 does not permit the works contractor to collect tax in case they opted for payment of tax under compounding system. The liability to pay tax rests with the contractor and not to the awarder. When payments are made, the awarder may deduct the tax from the payments made and remit the amount to Government U/a.10 of the KVAT Act 2003. This is done only when the awarder is not authorized to pay the contract amount without having deducted tax amount.</p> <p>Verification of statements of accounts and Audit Reports does not reveal any tax collection. No other evidence was forthcoming to prove that the assessee has collected any tax from the 'Awarder'. So there was no reason to order forfeiting the tax collected. However, on the basis of the audit observation that there is deemed collection of tax which is liable to be forfeited, the assessing authority has called for the books of accounts of the assessee. But he has not produced the same and in its absence and in the interest of revenue orders have been passed forfeiting the estimated tax together with penalty.</p> <p>The assessment was completed by order No.32030775224/2007-08 dated 28.09.2011. The assessee challenged the order in appeal before the</p>
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			Deputy Commissioner(Appeals)I, Kollam on the ground that the assessment was completed without sufficient evidence. The Appellate Authority set aside the assessment made and the matter was remanded as per order in KVATA(PTA)323/2011 dated 08.03.2012 for fresh disposal as per law. The assessment proceedings is now pending before the assessing authority.
	(b)	Recovery of overpayment pointed out by audit	
	(c)	Recovery of under assessment, short levy or other dues	
	(d)	Modification in the schemes and programmes including financing pattern	
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to incorrect computation of compounded tax.
	(c)	Paragraph No.	2.11.8.1 (a)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.2012
III		Gist of Paragraph/Review	M/s.K.K.Rocks and Granites India Pvt. Ltd, a mechanized metal crusher unit on the rolls of CTO, 3 rd Circle, Thiruvananthapuram had opted for payment of tax under section 8(b) of the Act for the year 07-08. The unit possessed a cone crusher of jaw size 36" x 8" which is classified separately from 07-08 onwards as it is neither a primary nor a secondary crusher on which tax was paid at the rate of Ra.3.60 lakh (secondary crusher) instead of at the correct rate of Ra.7.50 lakh resulting in short remittance of tax of Ra.3.90 lakh.
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	
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.	

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Remedial action taken

(a)	Improvement in systems and procedures, including internal controls.	M/s.K.K.Rocks and Granites India Pvt. Ltd, a mechanised metal crusher unit on the rolls of CTO, 3 rd Circle, Thiruvananthapuram had opted for payment of tax under section 8(b) of the Act for the year 07-08. The unit possessed a cone crusher of jaw size 36" x 8" which is classified separately from 07-08 onwards as it is neither a primary nor a secondary crusher on which tax was paid at the rate of Rs.3.60 lakh (secondary crusher) instead of at the correct rate of Rs.7.50 lakh resulting in short remittance of tax of Rs.3.90 lakh. In the light of audit, assessment for the year 07-08 was completed as per order dtd.6.12.11 u/s 25(1) of the KVAT Act 2003 creating additional demand of Rs.13,70,250/- (Tax Rs.9,45,000/- and interest Rs.4,25,250/-).
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases/ complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Incorrect computation of compounded tax
	(c)	Paragraph No.	2.11.8.1 (b)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.12
III		Gist of Paragraph/ Review	It is found from the inspection report dated 4 July 2008 available in the records of CTO, Thiruvalla that M/s.Panachayil Industries was in possession of 14 metal crusher units, which they opted for compounding in 08-09. However, in 09-10, they opted for compounding of nine crusher units only. The assessing authority had no details regarding disposal of plant and machinery by the dealer and hence the matter needs to be investigated as to whether there was short levy of compounding tax during 09-10.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The Commercial Tax Officer had granted permission for compounding u/s 8 in form No.4DA for the year 09-10, after she had conducted enquiry at the

			<p>crusher site and taking note of the number and type of crushers installed and functioning at the crushing unit at the time of inspection and after verifying the details of crushing machines installed at the unit by actual counting. The Commercial Tax Officer can pass an order granting permission for compounding only on the basis of the compounding application filed by the assessee and the site inspection done to verify the details of crusher machines furnished in the compounding application for the year for which compounding has been sought for, in this case, the year being 09-10.</p> <p>The permission for compounding for the year 09-10 cannot be based on the enquiry done on 4.7.08 which was done to verify the details of the compounding application filed for the year 08-09 by the assessee. The compounded tax for a year can be fixed only on the basis of the actual number of machines seen installed and functioning at the site during the year.</p>
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>M/s.Panachiyil Industries,West Othara, Thiruvalla, Pathanamthitta (32030577112/09-10)</u></p> <p>M/s.Panachiyil Industries had filed compounding application in form No.1D for the year 09-10 disclosing 6 secondary crushers and 3 primary crushers on 2.4.09 to the CTO, Thiruvalla. Pursuant to the application enquiry was conducted at their crusher unit by the Commercial Tax Officer on 19.5.09 and the Commercial Tax Officer had noted that 6 secondary crushers and 3 primary crushers had been installed and functioning at the unit. Based on the inspection at the crusher unit of the assessee a compounding order in form No.4DA, dated 26.5.09 was issued to the assessee fixing their total compounded tax liability for the year 09-10 at Rs.18,18,000/-. As far as the compounding year 09-10 was concerned the dealer had filed a compounding application in form No.1D disclosing 4 secondary crushers of size 16" x 9", 2 secondary crushers of size 30" x 10" along with 2 primary crushers of size 30" x 20" and one primary crusher with jaw size 42" x 30". The enquiry conducted by the Commercial Tax Officer on 19.5.09 also confirm the number and type of secondary and primary machines installed at the crusher unit as disclosed by the assessee in their compounding application.</p> <p>For the year 08-09, the assessee had filed compounding application in form No.1D dated 11.4.08 disclosing eleven secondary crushers and three primary crushers. An enquiry was conducted by the CTO at the crushing unit site of the dealer on 4.7.08 based on the compounding application of the assessee. The CTO had noted 10 secondary machines and 4 primary crushers installed and functioning at the crusher unit. It is further noted in the enquiry report that one secondary machine of size 16" x 9" had been replaced by a primary machine of size 42" x 30". On 18.6.08, on the basis of the compounding application filed by the assessee and</p>
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the subsequent enquiry report the CTO passed a compounding order in form No.4DA dated 24.7.08.

A further scrutiny of the quarterly returns of the assessee for the year 08-09 revealed that they had filed their returns for the last two quarters disclosing only six secondary crushers and three primary crushers instead of the originally installed eleven secondary crushers and four primary crushers.

The Commercial Tax Officer had granted permission for compounding u/s.8 in form No.4DA for the year 09-10, after she had conducted enquiry at the crusher site and taking note of the number and type of crushers installed and functioning at the crushing unit at the time of inspection and after verifying the details of crushing machines installed at the unit by actual counting. The Commercial Tax Officer can pass an order granting permission for compounding only on the basis of the compounding application filed by the assessee and the site inspection done to verify the details of crusher machines furnished in the compounding application for the year for which compounding has been sought for, in this case, the year being 09-10.

The permission for compounding for the year 09-10 cannot be based on the enquiry done on 4.7.08 which was done to verify the details of the compounding application filed for the year 08-09 by the assessee. If at all there had been 14 machines installed at the assessee's crushing unit during 2008-09, such fact cannot be a factor for fixing the compounded tax due from the assessee for the year 09-10. If any short levy had happened during 08-09, the assessee shall be assessed for the year 08-09 and the reasons for short levy if any, for the year 08-09 cannot be carried over and fixed on the subsequent year, i.e., 09-10. The compounded tax for a year can be fixed only on the basis of the actual number of machines seen installed and functioning at the site during the year.

Hence the short levy of compounded tax for the year 09-10 assessed based on the enquiry report dated 4th July 2008 which was done pursuant to the compounding application filed by the assessee for the year 08-09 appears to be not in tune with the prevailing compounding provision of the statute.

			<p>The audited final accounts of the assessee for the year 08-09 does not reveal disposal of any crushers during the year 08-09. The assessee admits that they had 14 crushing machines installed and functioning at their unit during the year 08-09. But their quarterly return for the last two quarters of 08-09 reveal only 9 crushers which is less than the 5 crushers disclosed by the assessee in their compounding application. This needs to be explained by the assessee. A reply in this regard is sought for from the assessee. Since the assessee had not shown sale or any other form of disposal of the aforesaid 5 crushers during the year 08-09 in the absence of a convincing explanation the assessee shall be assessed regarding this aspect.</p> <p>The computation of short levy of compounded tax for the year 09-10 was based on the enquiry report for the year 08-09, dated 4.7.08 and is not in consonance with the provisions of the KVAT Act.</p>
	(b)	Recovery of overpayment pointed out by audit	
	(c)	Recovery of under assessment, short levy or other dues	--
	(d)	Modification in the schemes and programmes including financing pattern	--
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non consideration of addition made in fixed assets (Plant and Machinery)
	(c)	Paragraph No.	2.11.8.2 (1)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.12
III		Gist of Paragraph/Review	The assessing authorities did not ascertain whether the addition to fixed asset (Plant and Machinery) accounted for the year was due to purchase of crusher units considering the huge amount of addition made in the fixed asset, the possibility of undisclosed crusher unit in the case cannot be ruled out. This requires detailed enquiry by the assessing authority.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	<u>K.K.Rocks & Granites India (P) Ltd</u> <u>(07-08, 08-09) CTO, 3rd Circle,</u> <u>Thiruvananthapuram</u> The addition made in the fixed assets for the year 07-08 and 08-09 in respect of the dealer were verified by examining the books of

			accounts of the dealer and ascertained that purchases are of machinery and not crushers. Moreover the place of business was also visited and the total number of crushers were verified. Hence the audit is not sustainable.
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	

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Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>K.K.Rocks & Granites India (P) Ltd (07-08, 08-09) CTO, 3rd Circle, Thiruvananthapuram</u></p> <p>The addition made in the fixed assets for the year 07-08 and 08-09 in respect of the dealer were verified by examining the books of accounts of the dealer and ascertained that purchases are of machinery and not crushers. Moreover the place of business was also visited and the total number of crushers were verified. Hence the audit is not sustainable.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non consideration of addition made in fixed assets (Plant and Machinery)
	(c)	Paragraph No.	2.11.8.2 (2)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.12
III		Gist of Paragraph/ Review	The assessing authorities did not ascertain whether the addition to fixed asset (Plant and Machinery) accounted for the year was due to purchase of crusher units considering the huge amount of addition made in the fixed asset, the possibility of undisclosed crusher unit in the case cannot be ruled out. This requires detailed enquiry by the assessing authority.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	Verification of the books of accounts of the dealer revealed that the addition in plant and machinery relates to the purchase of roller and drum, screening machine etc. which are accessories and spares of crushing machine. Moreover, periodical visits are being conducted at the business

			place of the assessee to ascertain the details of crushers. In view of the above facts, the observation of audit regarding the possibility of undisclosed crusher is not sustainable.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>M/s. Thomson Granite (P) Ltd. - 09-10. Special Circle. Thrissur</p> <p>The observation in Audit is that considering the huge amount of addition made in the fixed assets, possibility of undisclosed crusher unit could not be ruled out.</p> <p>As per account, there is addition amounting to Rs.23,45,608/- in fixed assets during the year 09-10. Verification of the books of accounts of the dealer revealed that the addition in plant and machinery relates to the purchase of roller and drum, screening machine etc. which are accessories and spares of crushing machine. Moreover, periodical visits are being conducted at the business place of the assessee to ascertain the details of crushers. In view of the above facts, the observation of audit regarding the possibility of undisclosed crusher is not sustainable.</p>
(b)	Recovery of overpayment pointed out by audit.	
(c)	Recovery of under assessment, short levy or other dues.	-
(d)	Modification in the schemes and programmes including financing pattern.	-
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit.	-

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non consideration of addition made in fixed assets (Plant and Machinery)
	(c)	Paragraph No.	2.11.8.2 (3)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.12
III		Gist of Paragraph/Review	The assessing authorities did not ascertain whether the addition to fixed asset (Plant and Machinery) accounted for the year was due to purchase of crusher units considering the huge amount of addition made in the fixed asset, the possibility of undisclosed crusher unit in the case cannot be ruled out. This requires detailed enquiry by the assessing authority.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support.	In this regard a detailed verification of the books of accounts of the dealer has been made. All the purchase bills for the plant and machinery newly purchased for the year 08-09 has been verified. The total addition of Rs.14,66,59,115/- which was

			<p>shown in the schedule to plant and machinery for the year includes Rs.13,92,71,505.95 related to another sister concern of the dealer at Peechiparai, Kadayal Post, Kalliyal, Vilavancode at Tamil Nadu having TIN-33966184041. When the dealer has filed compounding application for the year 08-09, permission has been granted after conducting inspection at the business premises of the dealer. At the time of visiting no new crusher units were seen used for the production of the metal at the business premises of the dealer.</p>
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	

VI

Remedial action taken

	(a)	<p>Improvement in system and procedures, including internal controls.</p>	<p><u>M/s.Poabs Granite Products (P) Ltd. (08-09). CTO. Angamaly</u></p> <p>The dealer is a metal crusher unit who had opted compounding system of payment of tax u/s 8 of the KVAT Act 2003. As per the schedule to fixed assets filed along with the final accounts for the year 08-09 the dealer had shown newly acquired plant and machinery for Rs.14,66,59,115/-. The audit objection points out that the dealer would have purchased Cone Crusher for Rs.14,66,59,115/- and this has resulted in a short levy of Rs.1,31,30,000/-.</p> <p>In this regard a detailed verification of the books of accounts of the dealer has been made. All the purchase bills for the plant and machinery newly purchased for the year 08-09 has been verified. When the dealer had filed compounding application for the year 08-09, permission had been granted after conducting inspection at the business premises of the dealer. At the time of visiting no new crusher units were seen used for the production of the metal at the business premises of the dealer. The compounding permission had been issued for the entire crushing units used for production during the period 08-09.</p> <p>But when the dealer filed the final accounts for the year, a mistake had been occurred. The total addition of Rs.14,66,59,115/- which was shown in the schedule to plant and machinery for the year includes Rs.13,92,71,505.95 related to another sister concern of the dealer at Pechiparai, Kadayal Post, Kalyal, Vilavancode at Tamil Nadu having TIN-33966184041.</p> <p>Plant and Machinery purchase for the year 08-09 for Rs.73,87,610/- relates to M/s.Poabs Granite Products (P) Ltd., Manjapara, Chully P.O., Angamaly having TIN 32150829835. All the items purchased were New Hitachi Hydraulic Excavant, Rock Breaker, Air compressor and 36 MM Cap. The dealer has filed the revised final accounts for the year 08-09 to this effect.</p>
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(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	

Action taken Notes on C&AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non consideration of addition made in fixed assets (plant and machinery)
	(c)	Paragraph No.	2.11.8.2(4)
	(d)	Report No. and Year	C&AG Report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>Verification of the accounts of metal crusher unit revealed that considerable addition to fixed assets (plant and machinery) was accounted for during the years. The assessing authority did not ascertain whether the addition was due to purchase of crusher units. Considering the huge amount of addition made in the fixed asset the possibility of undisclosed crusher unit in these cases cannot be ruled out. In the case of M/s.Panachayil Industries, Thiruvalla for the year 06-07, 07-08 & 08-09 there is an addition made to fixed asset to the tune of Rs.135.43 lakh, Rs.300.54 lakh and Rs.309.84 lakh.</p> <p>The AG recommends that Govt. may considering instruction for periodical inspection of metal crusher units so as to ascertain the number of units in the possession of the assessee.</p>
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>M/s.Panachayil Industries, Thiruvalla</p> <p>On the basis of audit assessment was completed and passed orders vide No.32030577112/05-06 to 08-09 dtd.25.8.14 creating addl. demand of Rs.5285567/- as below.</p> <table border="1" data-bbox="447 420 908 582"> <thead> <tr> <th>Year</th> <th>Addl. demand with interest</th> </tr> </thead> <tbody> <tr> <td>06-07</td> <td>299952</td> </tr> <tr> <td>07-08</td> <td>664325</td> </tr> <tr> <td>08-09</td> <td>685290</td> </tr> <tr> <td>09-10</td> <td>3636000</td> </tr> <tr> <td>Total</td> <td>5285567</td> </tr> </tbody> </table> <p>CCT has already issued strict instructions to the assessing authorities and the Intelligence Wing that periodical inspection should be conducted and should also obtain details from KSPCB, Mining and Geology Department and KSEB for assessment instead of resorting to blind estimation of turnover vide circular No.11/07 dt.22.8.07. Instructions on these lines have again been issued vide letter No.E3-23863/14/CT dtd.7.11.2014.</p>	Year	Addl. demand with interest	06-07	299952	07-08	664325	08-09	685290	09-10	3636000	Total	5285567
Year	Addl. demand with interest													
06-07	299952													
07-08	664325													
08-09	685290													
09-10	3636000													
Total	5285567													
(b)	Recovery of overpayment pointed out by audit													
(c)	Recovery of under assessment, short levy or other dues	--												
(d)	Modification in the schemes and programmes including financing pattern	--												
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--												

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Loss of revenue due to the introduction of compounding scheme
	(c)	Paragraph No.	2.11.9.1
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>As per Kerala Finance Act 2006 dealers in jewellery were permitted to pay tax at the rate of 200 per cent of the maximum amount of tax paid for any of the previous consecutive three years. Where a dealer had paid tax under the scheme during a year compounded tax payable for the succeeding year should be 115% of the tax paid under the scheme during the previous year. Thus by availing the proviso if a dealer had paid tax under the compounding scheme for a year, for the subsequent year, additional tax burden would only be 15 per cent more than that during the previous year. Again by the Finance Act 2008 the rate of compounded tax was reduced to 150 per cent from 200 percent with effect from April 2008. The price of gold had substantially increased during the period from 2005-06 to 2009-10 at the average rate of 21.97 percent. From the above details it could be seen that the additional tax burden of 15 per cent for the succeeding year was not even capable of covering the tax due to the increase in price.</p> <p>Dealers limited their additional tax burden to 15 per cent by availing this scheme which could cover turnover much</p>

			less than the actual, defeating the spirit behind implementation of the scheme. Government may adopt a pragmatic basis for fixing the rate of compounding tax so as to price escalation as well as the growth in trade.
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	

VI

Remedial action taken

(a)

improvement in system and procedures, including internal control s.

The Value Added Tax was introduced throughout India w.e.f 01.04.2005. The Empowered Committee constituted by the Government of India comprising all the Finance Ministers of the States has unanimously decided that the rate of tax on gold ornaments shall be levied only at 1 %. Accordingly, all the State Governments introduced the same rate on VAT Act. The Government of Kerala also did the same. But the Government has reintroduced 4 % tax w.e.f 01.07.2006 on the ground that there is fall in collection and that the purchase and sales without any supporting documents has increased rampantly, since tax evasion was profitable because of heavy customer hesitance. Tax revenue from gold/ jewellery for the period from 2004-05 to 2013-14 in Kerala is as below.

Year	Tax revenue (in crores)	Change of % over previous year	Rate of Tax
2004-05	55.48	NA	4%
2005-06	21.21	-61.77	1%
2006-07	97.9	361.57	4% (w.e.f 01/07/06)
2007-08	120.93	23.52	4%
2008-09	143.51	18.67	4%
2009-10	157.59	9.81	4%
2010-11	203.66	29.23	4%
2011-12	283.64	39.27	4%
2012-13	390.38	37.63	5%
2013-14	471.53	20.78	5%

The above details show that after re-introducing rate of tax at 4%, there has been consistent growth in the revenue from gold jewellery. Total revenue increased from Rs.97.90 crores in 2006-07 to Rs.471.53 crores in 2013-14.

Out of the total 5371 number of jewellery dealers having registration under KVAT Act, only 2668 dealers have opted for compounding. The balance 2703 dealers are out of the net of compounding.

Collection from compounded dealers during 2013-14 is Rs.310 crores where as that from non-compounded dealers, is Rs.161.50 crore. 80 % of the total revenue collection from gold under the compounding system, is collected from 4 major dealers.

Accountant General has selected 7 dealers to establish their contention that introduction of compounding scheme of 15% growth per annum is not in

consistency with average growth in price at 22% between the paid for the year 2005-06 to 2009-10.

The contention of Accountant General may not be true because of following reasons.

Had the compounding scheme not been introduced dealers were to remit the tax @ 1 % on their sales turnover as decided by the Empowered Committee. Then a comparative study considering this aspect has given a different picture as shown below.

Sl. No.	Name of Assessee	Year	Sales t/e as returned (% of increase)	115 % of the previous year t/e actually covered under the scheme	TO escaped due to the compounding scheme (4-5)	1 % of (4)	4 % of (5)	Difference (7-8)
1	2	3	4	5	6	7	8	9
1	Malabar Business Centre (P) Ltd, Palakkad	07-08	4186.22	4814.15	2292.10	41.86	75.68	33.84
		08-09	18972.29	21767.92	11796.30	189.72	87.03	-32.69
		09-10	18981.82	21829.09	16479.51	189.81	100.08	-39.73
2	Al Abali business trade link, Thrissur	07-08	3008.85	3460.16	1238.63	30.08	70.80	40.72
		08-09	6641.13	7637.30	4605.38	66.41	81.43	15.02
		09-10	8794.57	10013.65	6435.46	87.94	93.64	5.70
3	Ebina Jeweller Y	08-09	24605.66	28296.51	11102.39	246.05	988.32	742.27
		09-10	30507.18	35083.26	22092.90	305.07	1136.57	831.50
4	Sunny Diamonds	09-10	736.70	847.20	656.06	7.36	6.22	-2.64
5	Ebina Jewels	08-09	20808.66	23930.76	6135.41	208.08	585.80	378.75
		09-10	30361.21	34915.40	12420.54	303.61	674.82	371.21
6	Malabar Kochi Arcade (P) Ltd, Ernakulam	08-09	8106.88	9322.91	6306.42	81.06	72.09	-8.99
		09-10	22307.29	26654.21	20234.46	223.07	82.91	-140.16
7	Malabar Dandee India (P) Ltd, Malappuram	08-09	1797.32	2066.81	1235.27	17.97	18.88	1.61
		09-10	11365.66	13070.41	10632.79	113.65	21.71	-91.94
Total			226138.2	102401.38	123821.23	2261.31	4095.98	1834.67

From the above, the AG is of view that, the turnover escaped was to the tune of Rs.123821.23 lakhs. But it may be noted that, if the assessment was done on turnover basis and the value of tax was @ 1% instead of 4%, the

revenue loss would be Rs.1834.67 lakhs. Further, if tax levied on turnover basis IPT paid by the dealer on their purchase must have to be given as credit. So net tax will be decreased further.

The Government has introduced a new scheme of compounding w.e.f 01.04.2011, by which, compounded tax is to be calculated at 100 % / 105 % / 115 % / 125 % of the preceding years tax or 1.25 % of annual turnover, whichever is higher. The increased revenue collection during the years 2011-12 and 2012-13 is due to the above reason. As regards 2013-14, the price of gold has come down when compared to the year 2012-13, and that is why the growth rate is less.

Taxes Department of Government of Kerala had requested Gulathi Institute of Finance and Taxation (GIFT) to conduct a study on the taxation of gold trade in Kerala in the light of the observations made by the Subject Committee VIII on 12.01.2012. Pursuant to this, a study team was constituted with representatives from GIFT and Commercial Taxes Department. The team accordingly submitted it's report to the Subject Committee. Considering the recommendation of the Subject Committee, amendments were made to the provisions relating to gold compounding through the Finance Bill 2014. This was given retrospective effect from 01.04.2013 onwards. As per the amendment, reduced rate of compounding is prescribed as below.

Total turnover for the previous year	Dealers who were paying compounded tax continuously more than 5 years	Dealers who were paying compounded tax continuously for more than 3 years	Dealers paying compounded tax upto 3 years
Above Rs.10 lakhs and upto Rs.40 lakhs	103 % of the tax paid last year	104 % of the tax paid last year	105 % of the tax paid during last year
Above Rs.40 lakhs and upto Rs.1 crore	109 % of the tax paid last year	112 % of the tax paid last year	115 % of the tax paid during last year
Above Rs.1 crore	115% of the tax paid last year	120 % of the tax paid last year	125 % of the tax paid during last year

The price of gold ornaments is almost on a decreasing trend for the past two years. The higher rate of compounding is 125% of the tax paid during last year. Therefore the point raised in audit para has no relevance at present.

(b) Recovery of overpayment pointed

	out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modificat ion in the schemes and program mes including financing pattern	--
(e)	Review of similar cases/co mplete scheme/ project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES												
	(b)	Subject/Title of the Review Paragraph	Short levy due to omission to reverse the input tax credit availed												
	(c)	Paragraph No.	2.11.9.2												
	(d)	Report No. and Year	C& AG report ended 31.3.2011												
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11												
	(b)	Date of Department's Reply	27.3.12												
III		Gist of Paragraph/Review	<p>In two cases, ITC availed by dealers who opted for payment of tax under the scheme, on the purchases effected during the previous years and held in stock and used for sale in subsequent years on which tax was paid under section 8(f), was omitted to be reversed. This resulted in revenue loss of Rs.54.03 lakh as detailed in the following table.</p> <table border="1"> <thead> <tr> <th>Name of office</th> <th>Name of dealer</th> <th>Year (Rs.in lakhs)</th> <th>ITC availed during previous years on opening stock</th> </tr> </thead> <tbody> <tr> <td>Spl. Cle-I, Ekm</td> <td>A.Geeri Pai Gold & Diamond</td> <td>08-09</td> <td>37.06</td> </tr> <tr> <td>Spl.</td> <td>Malabar</td> <td>08-09</td> <td>16.97</td> </tr> </tbody> </table>	Name of office	Name of dealer	Year (Rs.in lakhs)	ITC availed during previous years on opening stock	Spl. Cle-I, Ekm	A.Geeri Pai Gold & Diamond	08-09	37.06	Spl.	Malabar	08-09	16.97
Name of office	Name of dealer	Year (Rs.in lakhs)	ITC availed during previous years on opening stock												
Spl. Cle-I, Ekm	A.Geeri Pai Gold & Diamond	08-09	37.06												
Spl.	Malabar	08-09	16.97												

		Cle- II, Elm	Cochin Arcade		
		Total			54.03
		<p>The Commissioner, however, was of the view that this aspect was factored in while fixing the initial rate of 200% and as such there is no loss. The reply is not acceptable as the initial rate had been reduced to 150% from 4/2008, applicable in the cases pointed out above.</p> <p>The CCT may issue instructions for levy and collection of reverse tax on account of ITC availed on closing stock held in the preceding year before granting permission for compounding for the next year.</p>			
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?			No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support			The definition of 'reverse tax' and Section 11(7) does not envisage a situation pointed out by the Accountant General for application of reverse tax.
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			

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>As per Section 2(X/iii) 'reverse tax' means that portion of input tax of the goods for which credit has been availed but such goods remain unsold at the closure of business or are used subsequently for any purpose other than resale or manufacture of taxable goods or execution of works contract or use as containers or packing materials of taxable goods within the State".</p> <p>As per Section 11(5)(c), no input tax credit shall be allowed for the purchases from a dealer paying compounded tax under section 8.</p> <p>As per Section 11(7), if goods in respect of which input tax credit has been availed of are subsequently used, fully or partly, for purposes in relation to which no input tax credit is allowable under the section, the input tax credit availed of in respect of such goods shall be reverse tax'.</p> <p>Hence, the definition of 'reverse tax' and Section 11(7) does not envisage a situation pointed out by the Accountant General for application of reverse tax.</p> <p>The dealer who has availed ITC is reselling the goods in the subsequent year and is paying compounded tax on the same. Hence issuance of such circular instruction would be contrary to Law.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--

	(c) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	
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Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to incorrect compounding
	(c)	Paragraph No.	2.11.9.3(a)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.12
III		Gist of Paragraph/Review	M/s.Bhima Jewels, a dealer in gold and diamond jewellery and an assessee on the rolls of CTO, Special Circle II, Ernakulam, opted for payment of tax under section 8(f) of the Act for the year 09-10. It filed annual return disclosing total turnover of Rs.392.90 crore and remitted tax of Rs.7.57 crore stated to be due under section 8(f). The sales turnover returned included bullion also, which would not fall under the purview of sec.8(f). However, the assessing authority did not initiate action to assess the turnover of bullion u/s 6(1) of the Act resulting in short levy of Rs.76.50 lakh (including interest).
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant	As per Kerala Finance Act,2011 an explanation clause (Explanation 9) is inserted to Clause(f)(i) of Section 8 to KVAT Act clarifying that for

		documents in support	<p>the purpose of section 8(f), articles of gold, silver or platinum group metals includes bullion also. It is a clarificatory amendment.</p> <p>Further more as per Circular No.42/06 dtd.27.11.06 and Clarification order No.C3-43977/09/CT dtd.14.12.11 of the CCT, Thiruvananthapuram it has been clarified that articles of gold, silver or platinum group metals shall also include bullion and are eligible for compounding u/s 8(f) of the KVAT Act.</p>
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.	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>As per Circular No.42/06 dtd.27.11.06 of the Commissioner of Commercial Taxes, in para 3 of the circular says "in the case of Jewellery all dealers in ornaments or wares or articles of gold, silver or platinum group of metals who have dealings in items covered under Sl.No.51A of the 3rd schedule and under Sl.Nos. 1,2,3 and 5 of IInd schedule are eligible for compounding u/s 8(f) of VAT Act 2003".</p> <p>As per Kerala Finance Act, 2011 an explanation clause (Explanation 9) is inserted to Clause(f)(i) of Section 8 to KVAT Act clarifying that for the purpose of section 8(f), articles of gold, silver or platinum group metals includes bullion also. It is a clarificatory amendment.</p> <p>The Commissioner of Commercial Taxes as per Clarification order No.C3-43977/ 09/CT dtd.14.12.11 has also clarified to the above effect.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Short levy due to incorrect compounding (Gold)
	(c)	Paragraph No.	2.11.9.3(b)
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	24.6.11
	(b)	Date of Department's Reply	27.3.12
III		Gist of Paragraph/Review	<p>M/s.Edimannikal Fashion Jewellery, an assessee on the rolls of CTO, Pathanamthitta had opted for payment of tax at the compounded rate for the year 08-09. The assessing authority fixed the compounded tax for the year as Rs.8.97 lakh including cess. Against this, the assessee remitted Rs.6.87 lakh only. However, the assessing authority did not initiate action to collect the balance unpaid tax due of Rs.2.10 lakh.</p> <p>Further, for the year 09-10, the assessing authority erroneously fixed the compounded tax due as Rs.7.90 lakh being 115% of tax paid for 08-09 instead of Rs.10.31 lakh being tax payable for the year 08-09 resulting in short levy of Rs.2.41 lakh. Total short remittance for the two years comes to Rs.4.51 lakh.</p>
IV	(a)	Does the Department agree	

		with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The compounded tax payable by the dealer for the year 08-09 was fixed as Rs.8,87,771/- being 150/- of the highest tax paid during previous three consecutive years. That was a wrong application of law because, the dealer was paying tax at the compounded rate from 06-07 onwards. Therefore the compounded tax payable by the dealer during 08-09 is 115% of the compounded tax paid for the year 07-08. Compounded tax paid by the dealer during 07-08 is Rs.5,91,847/-. Therefore he is liable to pay only 115% of the above during 08-09. As the dealer had remitted Rs.6,87,390/- during 08-09, there is no loss of revenue during the said period. As the dealer had remitted 115% of tax payable for the year 08-09 during 09-10, there is no loss of revenue during the year 09-10 also.
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	

VI

Remedial action taken

(a)	Improvement in systems and procedures, including internal controls.	The compounded tax payable by the dealer for the year 08-09 was fixed as Rs.8,87,771/- being 150/- of the highest tax paid during previous three consecutive years. That was a wrong application of law because, the dealer was paying tax at the compounded rate from 06-07 onwards. Therefore the compounded tax payable by the dealer during 08-09 is 115% of the compounded tax paid for the year 07-08. Compounded tax paid by the dealer during 07-08 is Rs.5,91,847/-. Therefore he is liable to pay only 115% of the above during 08-09. As the dealer had remitted Rs.6,87,390/- during 08-09, there is no loss of revenue during the said period. As the dealer had remitted 115% of tax payable for the year 08-09 during 09-10, there is no loss of revenue during the year 09-10 also.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit.	--

Action taken Notes on C& AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Incorrect compounding
	(c)	Paragraph No.	2.11.9.3(c)
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Dist of Paragraph/Review	M/s Ahukkas Jewellery Thrissur, M/s Peeyar Expoters opted for payment of tax under the compounded scheme for the year 2008-09 and paid tax at the rate prescribed under Section 8(f) of the KVAT Act for the turnover of jewellery. The dealers were also dealings in semi manufactured gold bar with HSN code 7108. 13 falling under entry 4(4) of the thirds schedule to the KVAT Act. The turnover semi manufactured gold bar was assessed to tax at the rate of one per cent instead of at the rate of four per cent resulting in short levy of tax of Rs.17.46 lakhs.
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	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The above dealers are assesses on the tolls of the Special Circle, Thrissur engaged in manufacturing and trading in gold ornaments.</p> <p>During the year both the above dealers have opted for payment of tax under Section 8(f) of the Act for the sale of gold ornaments. At the same time, they had also trading in Bullion for which tax under Section 6(1) was paid as Bullion was out of the compounding scheme during the period. They have filed returns in Form 10 for the trading in Bullion and in Form No.10 DA for the trading in gold ornaments. As per the returns filed in Form 10, the commodity dealt with by the above two dealers was 'Bullion' and not 'Semi manufactured gold bar' as pointed out in the audit report. They have paid OPT at the schedule rate of 1% on their sales of Bullion and claimed IPT at 1% on the corresponding local purchase.</p> <p>The above audit para was examined in the light of the Govt. direction contained in letter No.C2-7708/11/TD dtd.16.1.12 that the rectangular (gold-semi manufactured) gold bar sold by the dealers are different from bullion which coming under second schedule and semi manufactured item which coming under entry 4(4) of 3rd schedule of KVAT Act. Hence the assessing authority is directed to revise the assessment vide this office letter dt.24.10.2014.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

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