

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2019-2021)**

**FIFTY SECOND REPORT
(Presented on 26th June, 2019)**



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2019

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On

**Action Taken by Government on the Recommendations contained in the
133rd Report of the Committee on Public Accounts (2008-2011)**

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(2019-2021)

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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 Fifty Second Report on Action Taken by Government on the Recommendations contained in the 133rd Report of the Committee on Public Accounts (2008-2011)

The Committee considered and finalised this Report at the meeting held on 24th June, 2019.

Thiruvananthapuram,
24th June, 2019.

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

REPORT

This Report deals with the Action Taken by the Government on the recommendations contained in the 133rd Report of the Committee on Public Accounts (2008-2011).

The Report of the Committee on Public Accounts (2008-2011) was presented to the House on 28th December, 2010. The Report contained 10 recommendations relating to Revenue and Taxes Departments. The Government was addressed on 29th December, 2010 to furnish the Statements of Action Taken on the recommendations contained in the Report and final reply was received on 1-6-2016.

The Committee considered the Action Taken Statements at its meetings held on 20-8-2014 and 31-5-2017. The Committee was not satisfied with the Action Taken by Government on the recommendation contained in para 10 and decided to pursue it further and the recommendation, reply furnished thereon and further recommendation of the Committee is included in Chapter I of this Report.

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

CHAPTER I

Recommendations in respect of which Action Taken by Government is not satisfactory and which require reiteration

REVENUE DEPARTMENT

Recommendation

(Sl. No. 1, Para No. 10)

1.1 The Committee reckons that in the absence of any specific provision in the Kerala Revenue Recovery Act for demanding collection charges for the arrears, the department is not in a position to levy the same from the defaulters even if there is provision in the Rules to that effect. In the absence of any stipulation in
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the Act, the Rules would not be binding and operational. Sensing the predicament of the department in the matter, the committee requires the department to bring about necessary amendment in the Act so that provision is made for exacting collection charges within a specified time limit from the defaulters.

Action Taken

1.2 As recommended by the Committee Government have proposed amendments in the Revenue Recovery Act. The bill in this regard viz "The Kerala Revenue Recovery (Amendment) Bill, 2012 (bill No.141) is pending before the Legislative Assembly.

Further Recommendation

1.3 The Committee realized that the bill pending before the Assembly was lapsed. The Committee asked the revenue department to initiate new Legislation with proper provisions to demand collection charges on arrears and furnish the details to the Committee.

CHAPTER II

Recommendations in respect of which the Committee do not desire to pursue further in the light of the replies furnished by the Government

REVENUE DEPARTMENT

Recommendation

(Sl. No. 2, Para No. 16)

2.1 The Committee notices that eventhough the Accountant General, in its previous Reports has been constantly commenting upon the unconcerned attitude of the Revenue Department in demanding/realising luxury tax from the owners of residential buildings having a plinth area of 278.7 square metre or above and completed on or after 1st April 1999, the department was not striving to improve the situation. The Committee strongly denounces the apathy of the department and requires to collect the outstanding amounts from all the pending cases within three months.

Action Taken

2.2 The earlier Action Taken Report dated 8-2-2012 on para 16 was returned without vetting since building tax pointed out in the audit are pending. As per the latest details, out of Rs. 77,19,926 pointed out in audit in 2339 cases, an amount of Rs. 62,35,703 in 1978 cases have since been realised. 187 cases for an amount of Rs. 10,17,151 have been exempted from remitting the luxury tax as the buildings were either constructed before April 1, 1999 or the plinth area of the buildings were below 278.7m². Appeal pending disposal in 44 cases for an amount of Rs. 3,39,080 Earnest efforts have been taken to realise the balance amount of Rs. 1,27,992 in 130 cases.

Recommendation

(Sl. No. 3, Para No. 17)

2.3 The Committee is perplexed to note that the Tahsildar, Thiruvananthapuram had expressed the view that the assessee would be bound to pay interest for belated payment of luxury tax, only if the tax was not paid within the due date. Actually luxury tax was to be paid in advance and no due date was hence specified. The Committee repines the action of the Tahsildar in giving such an erroneous reply by improperly interpreting the provision in the Act and asserts that disciplinary action should be taken against the offender immediately for his misdemeanour.

Action Taken

2.4 Based on the explanation furnished by the Tahsildar, Thiruvananthapuram, the District Collector, Thiruvananthapuram has reported that the offense pointed out by the Committee was committed by the then Deputy Tahsildar, Smt. R. Sulochana. She had retired from service on 31-3-2010, before the recommendation of PAC 2008-2011 came. It had also been reported that replies to the audit queries were being approved by the Deputy Tahsildar concerned. As the Tahsildar was unaware of the erroneous reply furnished by the Deputy Tahsildar, he is spared of the disciplinary action as instructed by the committee. Government have understood the gravity of the issue. Hence

Commissioner of Land Revenue has been given strict direction for issuing a circular clarifying that replies to reports on Department/Finance Inspection Wing and that on C & AG and PAC recommendation have to be given only after ensuring that it does not contain any factual errors and also with the proper authentication by the head of the institution concerned.

Recommendation

(Sl. No. 4, Para No. 22)

2.5 The Committee observes that the Revenue Divisional Officer, Thrissur while disposing of an Appeal in August 2005 had improperly exempted plinth area of 2177.56 square metre which related to the administrative building and car porch of a non residential building (M/s Appollo Tyres) thereby causing a loss of Rs. 3.91 lakh to the exchequer. Furthermore, the department had abstained from taking any worthwhile action in this regard to make good the loss. Opining that the action of the RDO was disadvantageous to the financial interests of the State, the Committee urges the department to initiate disciplinary proceedings against the wrong doer for the mistake committed by him.

Action Taken

2.6 In the case of improper disposal of Building Tax appeal file related to Appollo Tyres building, show cause notice has been issued to Sri P. Swaminathan, former RDO who has already retired from service on Superannuation. The building has been reassessed and realised the entire amount.

TAXES DEPARTMENT

Recommendation

(Sl. No. 5, Para No. 40)

2.7 Eventhough the Kerala Budget Manual conspicuously lays down that the officers who submit the Budget Estimates (BEs) are to ensure that the BEs are neither inflated nor under pitched, but are as accurate as practicable, it is not seen scrupulously followed by the Department during the period covered by Audit.

Remarking that the variation in Budget Estimates for the years 2002-03 to 2006-07 ranging from (-)27.85 percent to (+)60.95 percent was a clear indication of poor budgeting, the Committee instructs the Taxes Department to be more realistic while preparing BEs in future, keeping in mind the circular instructions issued by Finance Department in this respect.

Action Taken

2.8 The recommendation of the Committee is noted. The same is brought to the notice of all concerned for information and future guidance.

Recommendation

(Sl. No. 6, Para No. 41)

2.9 The Committee notices that as per the definition of hotel as laid down in section 4(B) (1) of the KTL Act 1976 a building or part of a building where residential accommodation is provided for a monitory consideration alone attracts Luxury Tax. Consequently bar hotels would be out of the purview of the definition eventhough many of them contain rooms rented for lodging purposes. Hence the Committee recommends that the vagueness in the definition clauses should be avoided by bringing in necessary amendment to the said section of the KTL Act.

Action Taken

2.10 Under KTL Act 1976, definition of 'hotels' as laid down in clause 'e' of section 2 which is as follows:

“hotel means a building or a part of a building where residential accommodation is by way of business provided for a monitory consideration and includes a lodging house.”

2.11 As per Section 4 (B) (1) every proprietor of a hotel having not less than five rooms to be rented for accommodation for residence or otherwise and of every house boat, hall, auditorium, Kalyanamandapam and place of the like nature shall get his hotel, house boat, hall, auditorium, Kalyanamandapam or place of the like nature registered under the Act and the registration renewed annually.”

2.12 Thus accordingly a bar hotel would also come under the purview of KTL Act, if it provides not less than 5 rooms for rented accommodation for residence. In view of the above, no amendment in the KTL Act seems necessary.

Recommendation

(Sl. No. 7, Para No. 42)

2.13 The Committee from the additional information furnished by department vide letter No. 16451/C2/09/TD dated 17-1-2010 which is included as Appendix III of this Report, comprehends that luxury tax and penalty was yet to be recovered from many hotels, kalyanamandapams, house boats, clubs etc. across the State. This points to the fact that the department is shirking from its responsibility to conduct periodical inspections to identify the proprietors who are reluctant to pay tax and to recover the money from them. The Committee is displeased at the pathetic state of affairs and directs the department to recover the amount due from all the pending cases within no time. The department should conceive a suitable mechanism to ensure sharing of information between various departments like Irrigation, Excise, Tourism, Local Bodies, etc. in order to plug revenue loss and tax evasion and to ensure that all entities are brought under the tax net. Prescribed registers containing details like commencement of business, number of rooms, tariff, cut number etc. may be maintained to enable the department to assure the accuracy of luxury tax levied. The department should prescribe penal provisions and accountability against the officers who fail to collect luxury tax promptly in future.

Action Taken

2.14 Inspections are being conducted periodically and as a result the total number of registration under the Luxury Tax Act has increased from 3288 nos. in 2008-09 to 6067 nos. in 2013-14. Of this, number of hotels having registration under the Act has increased from 2179 in 2008-09 to 3589 in 2013-14. The department officials are always in touch with the Department of Tourism and Local

Body authorities with respect to booking/registering new cases, assessment and other aspects. Instruction had already been issued vide Circular No. 31/2008 dtd. 11-7-2008 to the officials, regarding the following:

(a) Make sure that all the entities which are liable to luxury tax, viz. Hotels/House Boats/Halls, Clubs, Auditoriums, Kalyanamandapams, Ayurvedic Health Resorts, Health Centres, Health Clubs, Convention Centre and place of like nature within the ambit of luxury tax should be enlisted and get registered.

(b) For the above purpose, information should be gathered in consultation with Department of Tourism, the details available with the Tour Operators and LSGD's for collecting statistics.

(c) The District Deputy Commissioners should review the progress of work and collection under this LT Act and he should in turn report the Details of work turned out in his district under the head with statistics on monthly basis. The concerned Deputy Commissioner (Int.) has to ensure that inspections are conducted to seal the loss of revenue in this area.

2.15 With respect to the recommendation of maintaining of prescribed registers containing details like commencement of business, number of rooms, Tariff etc., it may be noted that regular assessments are completed as per Rule 5 of KLT Rules. During the assessment stage the above aspects are examined for fixing the tax liability.

2.16 On PAC recommendation relating to penal provisions and accountability against the officers who fail to collect luxury tax promptly, the department is closely watching the performance of assessing officers and taking stringent action against those who failed to comply with the above recommendations. Disciplinary action has taken against Smt. V. O. Daisy, CTO (LT), KTM as per order No A7-16215/09/TX dated 7-4-2009 and the individual was placed under suspension for the irregularities committed while completing assessment under LT Act. The Case was finalized as per the order of even number dated 18-3-2011 by awarding 'censure'.

Recommendation

(Sl. No. 8, Para No. 43)

2.17 The Committee opines that the internal control system in the department is very ineffective. In spite of repeated observations by the Committee regarding the non-reconciliation of remittances into treasury, improper maintenance of DCB registers and defective maintenance of registration registers, assessment registers, the situation has not changed much, even though the department's version was on the contrary. The committee finds that no reconciliation was done in any of the offices reviewed and that the DCB register and statements were not maintained/prepared in any of the offices test checked by Audit. This is a blatant violation of the assurance given by Government in April 2006 that the reconciliation of remittances were being done and that the registers were being maintained properly. The Committee expresses utmost displeasure at the apathy of the department in the matter and recommends to take urgent disciplinary action against the officers who had failed to oblige with its observation.

Action Taken

2.18 As per the rules under KLT, maintaining of R-register, Assessment register. Additional Demand Creation (C3) register, DCB register, RR register, Cheque Register, etc. are mandatory shall be maintained properly. Of these maintaining of R-Register, C3 register and RR register are being done manually even though online facility has been provided. Online facility has been provided in the field of registration, renewal, filing of return, e-payment, maintaining of DCB, audited statement in Form 13-3A etc. As per Circular 12/2014 all officers under LT Act has been instructed to maintain an assessment register with effect from 1-4-2014 so as to ascertain the pendency of assessment, arrear demand and collection thereon. Necessary direction has already been given to officers for maintaining of DCB up to date. This has been reiterated in the circular mentioned above.

2.19 Regarding the recommendation of PAC with respect to reconciliation of remittance with the treasury, the CCT, as per D.O. Letter No. FIN. A3-11075/10CT dated 25-5-2013 direction has been given to all the DC's to constitute a special team for the work of verification of all remittance and reconciliation with the figures of AG. Besides, a Committee has been constituted consisting of Joint Commissioner (A&I), Assistant Commissioner-I and the Finance Officer of CCT to monitor and supervise the verification. The DC's have been directed to submit report at the earliest.

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

Recommendation

(Sl. No. 9, Para No. 44)

2.21 Recognizing the absence of an effective internal audit mechanism in the Department, the Committee urges to depute an officer from the Accountant General's Office to head the Internal Audit Wing of Taxes Department, without affecting the normal promotion chances of the staff of the Department.

Action Taken from Taxes © Department

2.22 At present, for the effective conduct of internal audit work, a team of officials has already been constituted in the Office of the Commissioner, comprising of three Assistant Commissioners, five Commercial Tax Officers and the team is headed by a Deputy Commissioner. Now the employees who are reinstated in service after suspension are not posted in sensitive posts like Internal Audit Officers. The Internal Audit Team constituted in the Department is now conducting audit regularly and functioning in an efficient and effective manner. Hence creation of an audit wing by utilizing the service of personnel from the Office of the Accountant General at the supervisory cadre in the Commercial Taxes Department seems not necessary.

Action Taken from Taxes (G) Department

2.23 The Internal Audit Wing of Excise Department is functioning effectively, and there is no need to depute an officer from the Accountant General's office to head the Internal Audit Wing.

Recommendation

(Sl. No. 10, Para No. 48)

2.24 The Committee notices that in the Foreign Liquor Rules, 1953, Indian Made Foreign Liquor (IMFL) and rectified spirit came under the same definition eventhough in reality, IMFL was a finished product and rectified spirit a raw material. Since the definition creates confusion and much practical difficulties, the Committee directs the department to bring necessary amendment in the Act as well as Rules in such a way as to fix separate rates for finished goods and raw material.

Action Taken

2.25 The Government, as per the Abkari Act (Amendment Act 3 of 2010), amended section 6 of the Abkari Act, and specified that no import fee shall be levied on the rectified spirit of ENA including absolute alcohol intended to be used for the manufacture of liquor meant for human consumption. It is also provided in the Act that the Amendment shall be deemed to have come into force on 30th March, 1996. In the Abkari Act amendment, it was specified that the Rectified Spirit/ENA imported for the manufacture of IMFL will not be subjected to import Fee, and notified different rates of duty and other levies for different kinds of liquor as provided under section 17 & 18 of the Abkari Act. At present, no import fee is being collected on the Extra Neutral Alcohol intended for the manufacture of IMFL. In this circumstances, it is not necessary to amend the Act or Rules specifying different rates for raw material and finished products. Hence this para may be dropped.

Thiruvananthapuram,
24th June, 2019.

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

APPENDIX I

SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

Sl. No.	Para. No.	Department Concerned	Conclusion/Recommendation
1.	1.3	Revenue Department	The Committee realized that the bill pending before the Assembly was lapsed. The Committee asked the revenue department to initiate new Legislation with proper provisions to demand collection charges on arrears and furnish the details to the Committee.

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