

**FOURTEENTH KERALA LEGISLATIVE ASSEMBLY**

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

**TWELFTH REPORT  
(Presented on 7th February, 2018)**



**SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2018**

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ON  
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**TWELFTH 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, 2012 (Revenue Receipts)**

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(2016-2019)**

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**Shri D. Krishnan Kutty, Under Secretary.**

## INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the 12th 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, 2012 (Revenue Receipts).

The Report of the Comptroller and Auditor General of India for the year ended 31st March, 2012 (Revenue Receipts) was laid on the Table of the House on 19th March, 2013.

The Committee considered and finalised this Report at the meeting held on 30th January, 2018.

The Committee place on records 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

### COMMERCIAL TAXES DEPARTMENT

#### Tax administration

The Commercial Taxes Department contributed 73.64 per cent of the revenue of the State during 2011-12. The revenue is derived from the assessment and collection of different taxes like General Sales Tax (GST), Value Added Tax (VAT) and Central Sales Tax (CST) which are regulated by the Kerala General Sales Tax Act (KGST), 1963, The Kerala Value Added Tax Act (KVAIT), 2003, the Central Sales Tax Act (CST), 1956 and notifications issued by the Department from time to time. The Department is under the administrative control of the Secretary to Government, Taxes Department. The Commissioner of Commercial Taxes administers the Acts and Rules. He is assisted by Joint Commissioners, Deputy Commissioners, Assistant Commissioners and Commercial Tax Officers. The assessment, levy and collection of tax is done by Assistant Commissioners and Commercial Tax Officers.

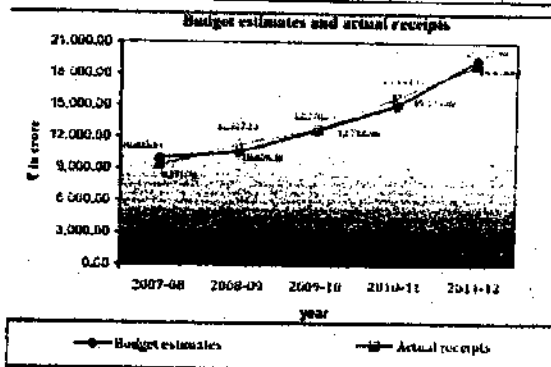
#### Trend of receipts

GST is leviable on sale of Ganja and opium, foreign liquor and certain petroleum products. VAT is leviable on the intra state sale of remaining commodities and CST on interstate sales. Actual receipts under VAT Act (0040-111), KGST Act (0040-102) and CST Act (0040-101) etc. during the last five years (2007-08 to 2011-12) 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
1	2	3	4	5	6	7	8
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

1	2	3	4	5	6	7	8
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
2011-12	19,427.90	18,938.83	(-)489.07	(-)2.52	25,718.60	73.64	19.62



### Assessee profile

The number of dealers registered as at the end of 2009-10, 2010-11, and 2011-12 are shown below:

2009-10	1,59,665
2010-11	1,69,298
2011-12	1,86,987

Source:KVATIS

Audit noticed an increase of 17689 in the number of dealers during 2011-12 over the preceding year. As per the information furnished by CCT the VAT collection from 50 top dealers in the State was ₹ 2,731.48 crore which is 27.86 per cent of the total collection. Out of the total dealers, 26001 dealers constituting 13.9 per cent were paying tax at 0.5 per cent under the category of presumptive tax payers.

Tax collection from KGST during 2011-12 was ₹ 8,754.38 crore as per the Finance Accounts prepared by AG (A&E). The Tax payable by five<sup>1</sup> major dealers alone comes to ₹ 7,359.22 crore as per their returns, which requires reconciliation so as to rectify the differences, if any.

<sup>1</sup> Kerala State Beverages Corporation (₹ 4,635.72 crore), Indian Oil Corporation (₹ 1,911.77 crore), Bharath Petroleum Corporation (₹ 1,080.08 crore), Hindustan petroleum (₹ 956.57 crore) and Reliance Industries (₹ 34.72 crore).

### Receipt of VAT per assessee

The receipt of VAT/sales tax per assessee during 2011-12 was slightly higher when compared to that of 2010-11 as shown below:

Year	No. of assessee	Total collection (₹ in crore)	Receipt per assessee (₹ in lakh)
2010-11	1,69,298	15,499.22	9.15
2011-12	1,86,987	18,558.12	9.92

### Arrears in sale tax assessments

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

Opening Balance	6,146
Addition during 2011-12 including remanded cases	5,135
<b>Total</b>	<b>11,281</b>
No. of assessment completed	4,164
Arrear cases – 3,015	
Current cases -903	
Remanded cases – 246	
Closing balance	7,117

Department completed 4164 assessments under KGST which was only 36.91 per cent of arrears outstanding.

[Audit paragraph 2.1 to 2.5 contained in the report of the Comptroller and Auditor General of India for the year ended 31st March, 2012.

Notes furnished by the Government in this regard is included as Appendix II]

With regard to the Audit observation, the Committee sought reason for variation between Accountant General's Report and the response on the part of the Departments. The witness, Commissioner of Commercial Taxes attributed poor reconciliation process as the sole reason for the same. He also detailed that



reconciliation certificate for the year 2010-11 and 2011-12 have been pending with the Department and submitted that reconciliation process for the years 2010-11 and 2011-12 should be completed by the year 2016. Responding to another question regarding the number of dealers got registered, the Commissioner deposed that it was 170409 in number at the end of 2009-2010 inclusive of VAT dealers, assessees and money lenders and a steady increase was recorded in succeeding years. In this context, the Committee advocated the importance of timely reconciliation and opined that reconciliation is important because from the next year of assessment the question of compensation would arise which may result in money loss.

2. While considering the audit reference regarding the arrears in Sales Tax Assessments, the Committee asked whether the arrears have been settled. The Witness, Commissioner of Commercial Taxes replied that all the cases except those under litigation have been settled and an action plan had also been worked out to settle the same at present. He also detailed that almost all the assessment cases reported in Thiruvananthapuram, Idukki, Mattancheri, Malappuram, Wayanad, Kannur and Kasaragod have been settled and 41 cases pending assessment reported in Ernakulam will be completed soon. He also disclosed that as on date the department have total 1898 cases pending assessment including 656 cases of arrears and 367 remanded cases. He was also optimistic that all the pending cases up to 2013-14 except those under court proceedings could be settled by March 2016, as per the action plan framed out by the department in this regard.

#### **Conclusion/ Recommendation**

3. The committee advocates the importance of timely reconciliation and opines that the question of compensation would be arises and that may result in revenue loss. Therefore it directs the Taxes department to submit a detailed report on the reconciliation activities carried out by them.

#### **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 2007-08 to 2011-12 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 preceding year
(₹ In crore)				
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
2011-12	18,938.83	166.55	0.88	0.75

Source: Finance Accounts and Departmental Figures.

Audit noticed that the expenditure on collection was higher than the all India average. The increase in revenue collection by 19.62 per cent during the year is appreciated, but the corresponding increase in expenditure on collection of revenue amounted to 44.06 per cent which is significant considering the reduction in all India average.

#### 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:

Revenue head	(₹ In crore)			Increase in 2011-12 over 2010-11 (Percentage)
	2009-10	2010-11	2011-12	
Sales tax	5,212.92	7,402.07	8,754.38	18.27
VAT	7,235.26	8,097.15	9,803.74	21.08
CST	292.94	310.42	292.66	-5.7

The above table indicates that during 2011-12 collection of VAT increased by ₹ 1,706.59 crore and sales tax increased by ₹ 1,352.31 crore. The Department intimated (July 2012) that the increase in price, e-payment, KVATIS scrutiny and improved enforcement measures led to significant increase of VAT/Sales tax collection during 2011-12.

[Audit paragraph 2.6 and 2.7 contained in the report of the Comptroller and Auditor General of India for the year ended 31st March, 2012.

Notes furnished by the Government in this regard is included in Appendix II.]

4. The committee pointed out the difference in the data in the reports of the Accountant General for the year 2011-12 and of the Department and sought a detailed reply in this regard. The Commissioner of Commercial Taxes informed that the hike was due to the total implementation of the recommendation of the 9th Pay Revision Commission. The Committee also asked the reason for the expenditure on collection furnished is not in agreement with the figures booked by the Accountant General, the witness, Commissioner of Commercial Taxes acknowledged the variation and agreed to submit a detailed report in this regard.

5. The Commissioner Commercial Taxes also informed the Committee about the need to improve the capacity building inputs of the Department and modernisation of checkposts. The Committee directed the Department to submit a detailed note regarding the measures to be adopted to improve the efficiency of the Commercial Taxes Department.

#### Conclusion/Recommendation

6. The committee expresses its displeasure on the variation in cost of collection figures furnished by the Government with the figures booked by Accountant General. It directs the Government to furnish an infallible report in this regard at the earliest.

#### Impact of Audit

#### Revenue Impact

During the last four years, 10840 paragraphs with revenue implication of ₹ 3,155.92 crore were pointed out. The observations were regarding non/short

levy, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax etc. Of these, the Department/Government accepted audit observations involving ₹ 1,030.98 crore and had since recovered ₹ 32.58 crore. The details are shown in the following table:

(₹ in crore)

Year	Paragraphs included in the LAR		Paragraphs accepted during the year		Amount recovered during the year	
	No.	Amount	No.	Amount	No.	Amount
2007-08	1055	334.37	299	241.50	181	2.46
2008-09 (Report No. 3)	2181	459.11	341	32.77	203	9.40
2008-09 (Report No. 6)	1	295.24	1	116.93	-	-
2009-10	4451	1,122.54	657	558.60	588	5.02
2010-11	3152	944.66	797	81.18	522	15.70
Total	10840	3,155.92	2095	1,030.98	1494	32.58

The recovery position as compared to the accepted cases during the last four years was very low being only 3.16 per cent. The insignificant recovery of ₹ 32.58 crore against the money value of ₹ 1,030.98 crore relating to the accepted cases during the period 2007-08 to 2010-11 highlights the failure of the Department in recovering promptly the Government dues 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 31 March, 2012.]

Notes furnished by the Government in their regard is included in Appendix II.]

7. Regarding the audit para that the department could recover only ₹ 32.58 crore out of ₹ 1030.98 crore accepted audit observations the Committee asked the reason for low percentage of collection. The witness Commissioner of Commercial Taxes Department, informed that the department have sorted out 8650 paragraphs out of 34415 and 25765 paragraphs remain

pending assessment. Then the witness, explained the measures proposed to be taken by the department in order to generate and increase the revenue to the exchequer. The Committee appreciated the measures adopted by the Department for increasing the revenue impact of the audit.

### Conclusion/Recommendations

8. Even though there has been certain reservation about the insignificant recovery position during 2007-08 to 2010-11, the Committee is impressed with the measures adopted by the department to curtail the revenue lapse since then. The Committee therefore emphasis the importance of prompt recovery proceedings on revenue lapse pointed out by audit and directs the department to submit an exhaustive report on the current scenario in revenue recovery.

#### Working of Internal audit wing

The internal audit wing (IAW) in the Commercial Taxes Department commenced functioning from 1st June 2009. The wing is headed by the Deputy Commissioner, three Assistant Commissioners and six Commercial Tax Officers. During the year 2011-12, against the target of 132 units, 32 units were audited leaving 100 units unaudited. The Department attributed the arrears to the ceiling fixed on Travelling Allowance to Audit Officers. There were 85 IRs with 1195 observations involving ₹ 90.63 crore outstanding (June 2012). Further, during 2009-10 to 2011-12, 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.

It is recommended that the IAW may be strengthened so that they are able to achieve their planned audit target. Besides, a mechanism needs to be evolved for timely settlement of the audit observations raised by the IAW.

[Audit paragraphs 2.9 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2012.

Notes furnished by the Government in this regard is included in Appendix II.]

9. The Committee noticed that the audit assessment for the years 2011-12 & 2012-13 remains non-settled and sought the reason for the same. The witness, Commissioner of Commercial Taxes Department informed that the Internal Audit

Wing (IAW) had reconstituted in the year 2009. Out of the 5459 audit observations involving an amount of ₹ 101.75 crore since then, the department could only settle 889 cases involving the amount worth of ₹ 3.22 crore. Then he also disclosed the two pronged strategy of the Department, proposed to be adopted for revenue generation such as focusing of tax cases of assessment pendency, and conduct internal audit by identifying the revenue circles which were having more revenue generation but not performing well recently. At this juncture, an official from the office of the Accountant General pointed the lethargic attitude of the Department in not taking any action against the cases pointed out by the internal audit wing of the Department itself and remarked that it is a matter of grave concern as far as the audit perspective is concerned. The witness, Commissioner of Commercial Taxes Department admitted the lapse and informed that tangible steps should necessarily be taken at the Departmental level as decided at the meeting of the Departmental higher-ups and assured the Committee that strong, effective and well functioning auditing machinery should be established in the Department.

#### Conclusion/Recommendations

10. The Committee recommends that the internal audit wing of the Commercial Taxes Department should be strengthened and the Government could ensure a mechanism for timebound settlement of the audit observations raised by the internal audit wing.

#### Results of audit

In 2011-12, Audit test checked the records of 175 units relating to KGST and KVAT. Underassessment of tax and other irregularities involving ₹ 810.11 crore in 2539 cases were detected which fall under the following categories:

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
Value Added Tax/KGST			
1	Turnover escaping assessment	898	267.10
2	Grant of irregular exemption	400	255.43
3	Application of incorrect rate of tax	211	29.10

4	Grant of excess input tax credit	425	21.33
5	Incorrect grant of concessional rate of tax	26	147.45
6	Non/short levy of Interest	17	3.18
7	Other lapses	562	86.52
	<b>Total</b>	<b>2539</b>	<b>810.11</b>

The Department accepted underassessment and other deficiencies of ₹ 6.68 crore in 537 cases of which 233 cases involving ₹ 4.22 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 4.57 crore was realised in 430 cases of which 153 cases involving ₹ 2.68 crore were pointed out during the year 2011-12.

Two draft paragraphs were issued involving ₹ 8.3 lakh, based on the audit observations pointed out by audit between April and November 2010. The Department has recovered the entire amount.

A Performance Audit on "Levy and collection of VAT on evasion prone commodities/areas in commercial Taxes Department" with financial impact of ₹ 222.98 crore and a few illustrative audit observations involving ₹ 67.52 crore are mentioned in the following paragraphs:

**Performance Audit on 'Levy and collection of VAT on evasion prone commodities/areas in Commercial Taxes Department'**

**Highlights**

Cross verification of the data obtained from State Pollution Control Board, Mining and Geology Department and Department of Industries & Commerce revealed that 378 dealers had not registered themselves with the Commercial Taxes Department (CTD).

Cross verification of the information obtained from the Controller General of patents and Trademarks, Customs Department with the data available with the CTD revealed that 56 dealers had suppressed their turnovers resulting in short levy of tax of ₹ 211.26 crore.

In the Special Circle Thiruvananthapuram, the Kerala State Road Transport Corporation received ₹ 6.15 crore as income from advertisement on bus bodies during the period 2006-07 to 2010-11 but did not assess the same to tax. This resulted in non-levy of tax and interest of ₹ 34 lakh.

The Department had not fixed the floor rate for Day Old Chicks (DOC). The farmers paid taxes at lesser rates on interstate rates than the rate fixed by KEPC. This resulted in loss of tax of ₹ 3.84 crore.

Despite reports of the Investigation Wing of the CTD regarding tax evasion by use of bogus C/F declaration forms, the Department did not take any action for realisation of tax of ₹ 5.03 crore.

The floor rate for plywood fixed in February 2007 was proposed to be revised in August 2009 with a hike of 15 per cent but these were not revised till November 2011. The delay in revision of floor rates resulted in forgoing of revenue of ₹ 2.02 crore during 2010-11.

### Introduction

The Commercial Taxes Department (CTD) is the highest revenue earning department of the State of Kerala, which contributed 73.64 per cent of the total state's revenue income in 2011-12. The tax on sales and purchase in the state is governed by three Acts the Kerala Value Added Tax Act, 2003 (KVAT), the Kerala General Sales Tax Act (KGST), the Central Sales Tax (CST) Act.

Section 47(16A) of the KVAT Act empowers the Commissioner of Commercial Taxes (CCT) to specify the commodities prone to evasion for which tax shall be paid in advance. The CCT in December 2006 specified twelve<sup>2</sup> evasion prone commodities for which tax should be collected in advance.

Under the KGST regime, the compulsory annual assessment provided the chances for scrutiny of all the transactions of a dealer. However, in KVAT Act, the returns filed by the dealer under Section 20 shall be deemed to have been assessed under Section 21 on receipt of the return by the Department.

2. Marble/Granite slab and tiles ceramic/vitrified floor/wall tiles, lift, elevators, escalators, glass sheet, Cudappah Stone, readymix concrete, generators, timber, live chicken, petrol/um products other than LPG, bitumen.



### **Reasons for selection**

The tax on entry of goods into local areas was abolished in December 2006, thereafter the CCT specified evasion prone commodities for which advance tax was required to be paid. A number of deficiencies/tax evasion were noticed during local audit. It was considered appropriate to conduct a Performance Audit on the commodities specified by the Department as evasion prone, and also on areas where the possibility for evasion was more, to ascertain the reasons thereon and remedial action required to be taken.

### **Organisational Set-up**

The Secretary to Government, Taxes Department has administrative control over the Department of Commercial Taxes. The Commissioner of Commercial Taxes (CCT) is the head of the Department. There are four Joint Commissioners (JC) viz., JC-I, JC (General), JC (Audit & Inspection) and JC (Law) of which JC (General) is in-charge of the entire assessment wing. District level administration of commercial taxes offices is carried through as 15 Deputy Commissioners (DC) in 15 tax districts. The DC in each district is the administrative head of the offices in that district. Assessment and collection of tax is done by Assistant Commissioners in 19 special circles where dealers having higher turnover and tax impact are managed and by the Commercial Tax Officers in 107 ordinary circles where other dealers are managed. The return scrutiny, audit visits, assessments, revenue recovery etc. are all attended to by these assessing and registering authorities.

### **Objectives of Audit**

The performance Audit was conducted with a view:

- to examine whether the provisions in the Act and Rules were adequate to avoid leakage of revenue in respect of evasion prone commodities;
- to see whether the existing organisational structure was adequate for analysis and detection of evasion;
- to see whether corrective measures are taken by the Department to plug the loopholes as and when evasion was detected;

- to identify unattended areas of evasion; and
- to ascertain whether the internal control mechanism in the Department was adequate and effective to prevent leakage of revenue.

### Audit criteria

The criteria for this performance audit are derived from the provisions and Rules of the Central and State laws mentioned below:

#### Central Laws

The Central Sales Tax Act, 1956

#### State Laws

1. The Kerala Value Added Tax Act, 2003
2. The Kerala Value Added Tax Rules, 2005

In addition, criteria have been derived from the Notification/Government Orders issued from time to time by the Government.

### Scope and Methodology

The Performance Audit was conducted during January to May 2012 covering the period from 2006-07 to 2010-11. The CTD is divided into three zonal intelligence offices<sup>3</sup> headed by Deputy Commissioners spread over 14 districts. The intelligence wing is the main pillar of Department which deals mainly with surveillance and detection of evasion of tax. Two districts from each zone were selected on a simple random sampling without replacement method. Six<sup>4</sup> check posts were also selected on the basis of revenue collection and transportation of certain evasion prone commodities. The assessment records in 32<sup>5</sup> assessment circles

- 
- 3 Deputy Commissioner (Intelligence), Thiruvananthapuram, Ernakulam and Kozhikode.
  - 4 Manjeswaram, Walayar, Aryankavu, Amaravila, Nadupuni and Gopalapuram.
  - 5 Thiruvananthapuram: Special Circle, I Circle, II Circle, Works Contract, Kollam: Special Circle, Circle II, III Circle Kundara, Special Circle, Kottarakkara, Ernakulam: Special Circle I, Special Circle II, Special Circle III, II Circle, III Circle, IV Circle, CTO Kalamassery, I Circle Mattanchery, II Circle Mattanchery, Works Contract, Special Circle, Perumbavoor, II circle Perumbavoor, I Circle Perumbavoor, Palakkad: Special Circle, II Circle, III Circle Kozhikode: Special Circle I, Special Circle II, II Circle and III Circle. Kannur: Special Circle, I Circle, II Circle and III Circle.

in the selected six<sup>6</sup> districts were cross checked with the secondary data collected from the Custom House, Kochi, The Joint Director General of Foreign Trade, Kochi and Thiruvananthapuram, the Kerala State Pollution Control Board, the Department of Industries and Commerce and the Department of Mining and Geology.

The selection of assesseees was based on the commodity wise dealer information available in the Kerala Value Added Tax Information System (KVATIS) of the CTD. The initial scrutiny of 429 returns which constituted 25 per cent returns of the dealers trading in evasion prone commodities pertaining to assessment circle of six districts selected on stratified sampling method, was conducted in the KVATIS to identify potential cases involving evasion in respect three commodities viz., Chicken, marbles/tiles and timber from the evasion prone list and two commodities from the notified list namely cashew and plywood. Returns of such identified cases were checked at the assessment circles.

#### **Interaction with the Government/Department**

An entry Conference was held on 24th January, 2012 with the Secretary to Government (Taxes) and the CCT, where in the scope and methodology of audit were discussed. The Report was sent (June 2012) to the Department/Government and the key audit findings of the performance audit report were discussed with the Additional Secretary to Government, Taxes Department and the CCT during the Exit Conference held on 25th June, 2012. The replies received in the Exit Conference and at other points of time have been appropriately commented in the relevant paragraphs.

#### **Acknowledgement**

Audit Acknowledges the co-operation extended by the Commercial Taxes Department, the Customs Department, the Joint Director General of Foreign Trade, Ernakulam and Thiruvananthapuram, the Kerala State Pollution Control Board, Department of Industries and Commerce, the Department of Mining and Geology, the Department of Economics and Statistics and the Registrar of Companies (Kerala & Lakshadweep) for providing necessary information and inputs required for preparation of the Report.

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<sup>6</sup> Thiruvananthapuram, Kollam, Ernakulam, Palakkad, Kozhikode and Kannur.

### Trend of Revenue

The collection of VAT revenue increased from ₹ 8,563.31 crore in 2006-07 to ₹ 15,833.11 crore in 2010-11, with an increase of 85 per cent.

(₹ in crore)

Year	Budget estimates	Actual collection	Percentage of collection to budget estimates	Variation (in percentage)
2006-07	7,930.38	8,563.31	107.98	8
2007-08	10,035.51	9,371.76	93.39	(-7)
2008-09	10,616.39	11,377.13	107.17	7
2009-10	12,733.96	12,770.89	100.29	0
2010-11	15,835.90	15,833.11	99.98	0

The above table indicates that the variation between the budget estimates and actual collection during the period was less than ten per cent up to 2008-09 and negligible during 2009-10 and 2010-11. The low percentage of variation between budget estimate and the actual is appreciable.

### System Deficiencies

#### Scrutiny of annual returns

Under the KGST regime, the compulsory annual assessment provided chances for scrutiny of returns of all the dealers while under KVAT Act, when a return is accepted under Section 21, it is deemed to have been completed. However, assessments in case of non-filing of returns and filing of defective returns are done under Section 23 of the Act. In addition to the above, the Department complete audit assessment of selected cases also under Section 24 and assessment of escaped turnover under Section 25.

The details of Returns filed and assessments made in nine of the selected offices as per the sample are given below:

(₹ in lakh)

Sl. No.	Office	Total No. of dealers	Assessment						
			Self assessment U/s 21	Best of Judgement U/s 22		Audit Assessment U/s 24		Escaped turnover U/s 25	
				No. of Cases	Additional demand created	No. of cases	Additional demand created	No. of Cases	Additional demand created
1	Special Circle, Thiruvananthapuram	628	628	0	0	0	0	268	567.87
2	Special Circle, Kollam	746	746	0	0	0	0	328	1116.75
3	Special Circle, Kottarakkram	295	295	6	32.33	7	15.68	100	384.29
4	Special Circle III, Ernakulam	590	585	0	0	0	0	94	860.65
5	Special Circle, Perumbavoor	453	440	0	0	0	0	72	158.93
6	Special Circle I, Kozhikode	564	564	0	0	12	33.84	100	413.29
7	Special Circle II, Kozhikode	280	280	6	0.63	2	1.13	144	705.31
8	Special Circle, Kannur	477	477	0	0	6	28.56	120	302.38
9	Special Circle, Palakkad	457	457	0	0	0	0	31	435.48
<b>Total</b>		<b>4490</b>	<b>4490</b>	<b>12</b>	<b>32.96</b>	<b>27</b>	<b>79.21</b>	<b>1257</b>	<b>4944.95</b>

Out of the 4,490 returns received, detailed scrutiny was conducted only in 1296 (31 per cent) cases. The remaining 3,194 (69 per cent) returns were considered as deemed to have been assessed based on self assessment. It was noticed that from these 31 per cent of the cases, the Department could raise an additional demand of ₹ 5,057.12 lakh. This is a clear indicator of the revenue potential of the detailed scrutiny.

After this was pointed out in audit, the Government issued (November 2012) instructions to the Department to scrutinise annual returns of dealers with turnover above ₹ 60 lakh along with audited statements and as regards other cases, to scrutinise at least once in three months.

### **Results of abolition of Audit Assessment Wing**

The separate audit assessment wing which was initially formed in 2006-07, at the time of switching over to the KVAT Act was abolished due to manpower shortage. The wing was doing local inspection under the VAT regime upto 2008. Thereafter, the assignments under audit functions were also attended to by the officers in the assessment circles. During 2006-07 and 2007-08 there were 4487 audit visits to the business places of dealers, out of 1.78 lakh dealers. The abolition of the audit assessment wing resulted in non-inspection of local units. In the KVAT regime, where assessment is deemed to be completed on self declaration, the need for a dedicated audit assessment wing for scrutiny is essential.

### **Low achievement by Internal Audit**

The Internal Audit Wing of the Department was able to audit only eight offices during 2009-10 and 14 offices during 2010-11 out of 126 assessment circles. Thus, the audit coverage/achievement was only 0.63 per cent in 2009-10 and 11.11 per cent in 2010-11. The irregularities detected during 2009-10 and 2010-11 were 262 cases involving ₹ 7,061.49 lakh and 458 cases involving ₹ 2,417.16 lakh respectively. The action taken/recoveries made on the internal audit observations were not furnished despite being requested (December 2012).

Since the chances for evasion are more on self assessed returns, the percentage coverage of internal audit wing needs to be increased to ensure that all the dealers comply with the provisions of the Act.

### **Merger of Commercial Investigation Wing with Intelligence Wing**

The intelligence Wing in the CTD with its duty to identify cases of tax evasion is the main pillar of the supervisory mechanism to safeguard the revenue. Identification of tax avoidance by dealers through consistent check with data and returns from financial institutions and other departmental agencies like the Central Excise, Income Tax, Customs, Railways etc., was entrusted to the Commercial Investigation (CI) Wing under the direct control of the CCT. However, the CI wing was rearranged and merged with the Intelligence Wing (November 2011). Though import data of goods was collected (2011-12) from the Customs Department by

Investigation Branch (IB) of the CTD in Kochi, sharing of the same with other zonal intelligence offices and cross verification of the same to identify cases of evasion was not done indicating that with the merger, the work was left unattended.

After this was pointed out in audit, the Government stated (November 2012) that an "Economic Intelligence Wing" will be constituted in the Department which will go a long way in overcoming the deficiency pointed out. Further developments are awaited (November 2012).

It is recommended to restore audit assessment wing, Commercial Investigation Wing, and strengthen the Internal Audit Wing to ensure compliance of the provisions of the Acts and Rules. The Government may advise the Department to scrutinise annual returns of dealers beyond a fixed limit.

After this was pointed out the Government accepted our recommendations for restoration of the wings and issued instructions to scrutinise returns with turnover above ₹ 60 lakh.

[Audit paragraphs 2.10 to 2.11.11 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2012.

Notes furnished by the Government in this regard is included in Appendix II.]

11. By expressing deep resentment over the non-detailed scrutiny of audit returns of the dealers by the Department as mandated by under KGST (Kerala General Sales Tax) and KVATIS (Kerala Value Added Tax) the Committee criticised the procedures adopted by the Taxes Department in this regard and opined that the audit assessment process became useless. Then in the wake of a significant recommendation made by the Accountant General and also due its acceptance by the department as such, the Committee did not want to make any comments/remarks in this connection. In this context, the witness, Commissioner, Commercial Taxes Department acknowledged that around sixty thousand dealers were having turn over above ₹ 60 lakh and informed that a meticulous monitoring of their cases will definitely augment revenue generation. He explained the result oriented strategy to enhance the revenue collection, taken by the Department

before the Committee. The Committee mooted the introduction of some incentive system among the officers of Department and the witness, Commissioner of Commercial Taxes Department informed that some plan is on the anvil in this regard. According to the witness some officers of the department perform brilliant job and in order to encourage them and to recognise their commendable work the Department contemplates to send them to some capacity building programme at National as well as State level functions.

12. In this regard, the Committee opined that non-cash surrogate incentive should be awarded to the officers of the department who perform well as the token of recognition of their commendable and devoted service. To a doubt aired by the Committee that the figures booked in the notes prepared by the department i.e., 37488 were annual or monthly return, an official from the Taxes Department clarified that the same is annual return to be filed with audited statements.

13. Regarding the audit observation on abolition of Audit Assessment Wing, the Committee accepted the explanation furnished by the Department.

#### **Conclusions/Recommendations**

14. The Committee recommends that non-cash surrogate incentive should be awarded to the officers of Commercial Taxes Department who perform well as a recognition of their commendable and devoted service.

15. The Committee directs the Taxes Department to ensure that the annual return of an assessee should be filed along with their annual accounts itself.

#### **Methods of tax evasion**

##### *Non-registration of dealers*

Non-registration is one of the methods practised by the dealers to evade tax.

As per the KVAT Act, 2003, every dealer with annual turnover not less than ₹ 5 lakh and casual dealers, industrial units, dealers registered under the CST Act, all contractors, irrespective of the turnover shall get himself registered.



As per the data made available by the CCT, there were 1.78 lakh registered dealers as on 31 March 2011 compared to 1.28 lakh as on 31 March 2006, with an increase of only 50,193 during the period of five years. However, it was found that the Department of Economics and Statistics of Kerala had statistics of 13.24 lakh units in the non-agricultural field under different categories, which is exigible to VAT as mentioned below:

Name of the activity	Rural	Urban	Total
Mining and quarrying	2,487	660	3,147
Manufacturing	3,45,934	1,43,667	4,89,601
Electricity, Gas and Water Supply	4,157	804	4,961
Construction	10,151	7,178	17,329
Sales, maintenance and repair of motor vehicle/motor cars	19,811	17,699	37,510
Wholesale Traders	35,251	19,917	55,168
Retail Traders	4,15,109	2,03,257	6,18,366
Restaurants and Hotels	69,249	28,577	97,826
<b>Total</b>	<b>9,02,149</b>	<b>4,21,759</b>	<b>13,23,908</b>

Further, the Committee constituted by the Government under the chairmanship of Deputy Commissioner (Intelligence), Thiruvananthapuram in November 2011 to study restructuring of the CTD including registration of new dealers, in its report (January 2012) stated that by bringing new dealers into the tax net through survey, the suppliers in the VAT chain will be forced to issue sales bills and the VAT trail upto the consumer level would be complete and on a conservative estimate the minimum tax impact would be ₹ 87.75 crore per year and thereby securing the legitimate tax to the Government. This indicates the existence of unregistered dealers.

However, there was nothing on record to indicate that the Department had made use of the above information to bring unregistered dealers under tax net.

### Absence of co-ordination with other Government Departments and Boards for registration of dealers.

We found that there was no co-ordination between the CTD and other Government Departments to ascertain that the dealers whose turnover had exceeded the threshold limit were registered with the CTD and had declared turnover of their sales correctly in their returns.

The CTD had not put in place any mechanism<sup>7</sup> for obtaining information from the "other Government Departments" and cross verify the same with the data available in KVATIS to ascertain its correctness. A few deficiencies noticed instances are discussed in the following paragraphs:

- **Cross verification of data obtained from State Pollution Control Board in respect of Stone crushing units**

(i) Cross verification of the data available in Kerala value added tax information system (KVATIS) with the information obtained from the State Pollution Control Board (PCB) revealed that out of 110 stone crushing units registered with the PCB, 73 units were not registered in KVATIS involving a tax evasion of ₹ 29.20 lakh<sup>8</sup> as shown below:

Name of the District	Total cases checked by Audit	Units registered already with the Department	Units not registered	Amount (₹ in lakh)
Kozhikode	23	13	10	4.00
Palakkad	12	4	8	3.20
Kannur	16	11	5	2.00
Ernakulam	59	9	50	20.00
	110	37	73	29.20

<sup>7</sup> By way of returns or otherwise

<sup>8</sup> Evasion estimated at the minimum compounded tax of ₹ 40,000 per unit, based on the minimum jaw size of the machine

• Cross verification of data obtained from Mining and Geology Department in respect of Stone Crushing units

(ii) Cross verification of the data available in "VAT" with the information obtained from the Mining and Geology Department revealed that out of 37 stone crushing units registered with the Department, 22 units were not registered in KVATIS involving a tax evasion of ₹ 8.51 crore<sup>9</sup> as shown below:

Name of the District	Total cases checked by Audit	Units registered with the Department	Units not registered	Amount (₹ in lakh)
Kozhikode	1	0	1	20.11
Trivandrum	13	12	1	8.71
Palakkad	3	0	3	21.77
Kannur	1	1	0	0
Ernakulam	19	2	17	800.77
	37	15	22	851.36

There was no co-ordination between the government agencies and the CTD which resulted in the existence of 95 units remaining unregistered. The assessing authority/intelligence wing also failed to detect this due to non-adherence to the Departmental instructions.

• Cross verification of data obtained from Department of Industries and Commerce in respect of Plywood manufacturers

Audit cross checked information on plywood manufacturers available in the KVATIS with reference to the details collected from the Department of Industries and Commerce. There were 768 units registered with Industries and Commerce Department in Ernakulam district<sup>10</sup>. Out of these 283 dealers were not found registered under KVA

<sup>9</sup> Evasion of tax calculated based on the jaw size and actual number of machines used Compounded tax ranged from ₹ 40,000 to 15,00,000 based on the jaw size.

<sup>10</sup> Plywood manufacturers are mainly concentrated in Ernakulam District.

The Department did not make any effort to cross check data with other Departments.

#### **Cross verification of check post returns with self assessed returns**

M/s. Regma Ceramics Ltd. is a dealer in ceramic/vitrified tiles. As per the annual returns the assessee paid an advance tax of ₹ 4.43 crore during 2009-10 based on floor rates fixed by the Commissioner of Commercial Tax while bringing ceramic tiles from outside the State. The price of goods imported based on the advance tax worked out to ₹ 35.28 crore, but the assessee conceded a sales turnover of ₹ 32.40 crore only. This resulted in turnover of ₹ 2.78 crore escaping assessment and consequent evasion of tax, cess and interest of ₹ 41.06 lakh. The matter was reported to the Government (March 2012); no reply has been received (December 2012).

#### **Results of cross verification of registered dealers**

- **Cross verification of information obtained from Controller General of Patents and Trademarks with the returns of the dealers.**

The Controller General of Patents, Designs and Trade mark, Mumbai<sup>11</sup> (CGPDT) is the authority where trademark is to be registered. Under the KVAT Act, bakery/food products sold under brand name registered under the Trade Mark Act, 1999 are liable to tax at 12.5 per cent.

The details available on the website of the CGPDT were verified with the assessment record of ten dealers and it was found that nine bakery products which were sold under different trademark like Fresh, Best, Dev Snacks, Elite, Asian,

<sup>11</sup> A Department of Government of India.

Ojin were taxed as unregistered branded food products at the rate of four per cent instead of the correct rate of 12.5 per cent. This resulted in short realisation of tax of ₹ 36.84 crore as detailed in the following table:

(₹ in lakh)						
Sl. No.	Name of assessee/Office	Turnover of Products	Short levy at the differential rate of 8.5 per cent	Penalty	Interest	Total short levy of tax
1	M/s. Kilban Foods India (P) Ltd. Spl. Circle II, Kozhikode	737.84	63.15	126.29	18.15	207.58
2	M/s. Fresh Products-IV Circle, Ernakulam	615.84	52.78	105.56	12.31	170.64
3	M/s. Best Bakery-II Circle, Ernakulam	493.6	42.25	84.5	12.29	139.03
4	M/s. Dev Snacks CTO, Kundara	605.68	51.83	76.14	42.94	170.89
5	M/s: Elite Foods (P) Ltd. Spl. Circle-II, Ernakulam	6108.61	523.26	1066.54	137.54	1727.34
6	M/s. Elite Natural (P) Ltd. Circle-IV, Ernakulam	2757.77	240.88	481.75	62.86	785.47
7	M/s. Asian Home Products (P)-III Circle, Trivandrum	317.7	27.01	54.01	14.06	95.06
8	M/s. Best Foods Ltd. Spl. Circle-I, Ernakulam	1238.17	106.3	212.59	23.16	342.06
9	M/s. Ojin Bakers, II Circle, Kozhikode	95.63	8.21	16.6	1.72	26.53
10	M/s. Ojin Bakers, II Circle, Kozhikode.	71.15	6.11	12.22	0.94	19.26
<b>Total</b>		<b>13041.99</b>	<b>1121.78</b>	<b>2236.2</b>	<b>325.97</b>	<b>3683.86</b>

After the matter was reported, the Government stated (November 2012) that assessments have been completed creating additional demand of ₹ 1.12 crore in three cases. We have not received detailed report in respect of other cases (December 2012).

- **Cross verification of data obtained from Customs Department in respect of Raw Cashew dealers.**

The details of import purchases of Raw Cashew Nut (RCN) through Cochin, Mangalore and Tuticorin Ports were collected from the Customs Department, and verified with reference to the returns filed by the dealers registered under the KVAT Act, 2003. It was found that 23 dealers had imported RCN valued ₹ 2,104.13 crore during the period from 2008-09 to 2010-11. The purchase turnover disclosed by the assesseees in their VAT returns filed with the CTD was ₹ 1,078.99 crore only, resulting in suppression of import purchase turnover of RCN valued at ₹ 1025.14 crore. This resulted in short levy of tax, interest and penalty amounting to ₹ 136.11 crore (Appendix III).

After this was pointed out in audit, the Government stated (November 2012) that in 19 cases involving a tax effect of ₹ 120.35 crore, pre-assessment notices had already been issued.

In three cases, the Government stated that the import value accounted for by the dealers was excluding the insurance charges and freight charges. The reply was not correct as the insurance charges and freight charges would form part of purchase price as per Section 2(xxxviii) of the KVAT Act 2003. In one case no reply has been received.

- **Cross verification of data obtained from Customs Department in respect of Imported Timber**

Import purchase details of timber through Cochin, Mangalore and Tuticorin Ports during 2008-09 to 2010-11 were verified with reference to the VAT returns

of dealers and it was found that 19 dealers had imported timber valued at ₹ 292.55 crore against which only ₹ 217.56 crore was conceded in the returns. This resulted in suppression of turnover to the tune of ₹ 74.99 crore and consequent short levy of tax amounting to ₹ 33.93 crore. A few cases are mentioned in the following table:

Sl. No.	Name of Assessee	Turnover (₹ in crore)		
		Customs data	Conceded in the returns	Difference
1	Hillwood Furniture (P) Limited	66.02	49.88	16.14
2	New Western Saw Mill	21.54	16.85	4.69
3	St. Antonys Timber Depot	12.25	8.27	3.98
4	VS Exports and Imports	65.71	42.47	23.24
5	Wood Board	19.37	11.87	7.50

• **Cross verification of data obtained from Customs Department in imported material used by works contractors**

Section 8 of the KVAT Act requires a contractor to pay tax at compounded rate, the rate being three per cent of the contract amount after deducting the purchase value of goods consigned into the State or stock transfer or purchase from outside the State and for the purchase value of goods so deducted, to pay tax at scheduled rate applicable to such goods.

During cross verification of data obtained from the Custom House at Cochin Port it was found that in respect of four out of twenty-one cases test checked, the

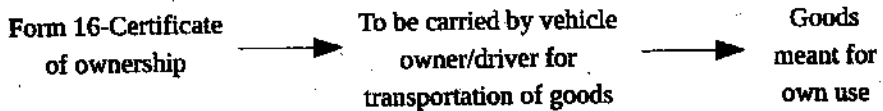
assesses failed to disclose import purchases of tiles, marbles, elevators, air conditioning units etc. resulting in short levy of tax amounting to ₹ 4.39 crore as detailed below:

(₹ in lakh)				
Sl. No.	Name of the Assessee	Commodity imported	Turnover escaped assessment	Short levy including interest and penalty
1	M/s. Abad Builders	Escalators, Air Conditioners, Furniture	184.64	75.30
2	M/s. Choice Construction	Escalators	151.91	61.95
3	M/s. Puravankara Projects	Elevators, Aluminium Structures	412.29	168.13
4	M/s. Tamara Real Estate Holding and Developments (P) Ltd.	Furniture	109.89	44.81
<b>Total</b>				<b>438.59</b>

The Government may consider introducing a system of obtaining information periodically from other Departments/Boards etc. in respect of the persons registered with them and cross verify the same with KVATIS to trace the dealers whose turnover crossed the threshold limit and are liable for registration with the CTD.

#### Goods meant for own use - Form 16

The VAT Act envisages production of ownership certificate for availing exemption from payment of tax on goods transported for own use.



As per Rule 58(18) of KVAT Rules 2005, every person other than a registered dealer, who consigns any goods by any vehicle or vessel, where the transport is not



in pursuance of a sale, shall issue a certificate of ownership in Form 16. Later (March 2007) the procedure laid down for transport of goods for 'own use' was extended to registered dealers also.

It was found that there was considerable increase in transportation of goods for own use by registered as well as unregistered dealers leading to evasion of tax under cover of Form 16 as detailed below:

Name of institution from which data was collected	Number of cases in which transportation of goods was effected with Form 16 and received in the Intelligence Offices from check posts for further verification				
	2006-07	2007-08	2008-09	2009-10	2010-11
DC(I), Kozhikode	9	18	33	269	1237
DC(I), Ernakulam	0	12	54	261	1480
DC(I), Thiruvananthapuram	0	0	0	302	1382
<b>Total</b>	<b>9</b>	<b>30</b>	<b>87</b>	<b>832</b>	<b>4099</b>

The above table indicates that after dispensing with the requirements of countersignature by the assessing authorities there was a steep rise in submission of form 16. The number of forms increased from nine in 2006-07 to 4099 in 2010-11 registering increase of 4090 forms. This indicates that there is a need for investigation of the correctness of the forms.

After this was pointed out in audit, the Government stated (November 2012) that in the absence of Entry Tax Act, purchase of material from outside the state for own use cannot be effectively curbed. The reply is not relevant to the point raised. It further stated that the matter is being attended to on the basis of instructions already issued. Further developments are awaited.

Taking into consideration the potential misuse of items covered by Form 16, it is recommended that, the assessing authorities/intelligence wing may follow-up on goods brought into the State to prevent their misuse.

### **Evasion due to neglected areas in KVATIS**

As the economy is expanding, new commodities and methods of value addition are taking place. As a major source of revenue earner, the Department has to keep pace with these developments and identify newer areas of taxation and new methods of evasion practised by dealers for taking remedial measures. Some of the areas identified by audit are discussed below:

#### **Transfer of right to use**

Sale means any transfer of property in goods by one person to another in the course of trade or business for valuable consideration. As per Section 6(1)(c) of the KVAT Act, in the case of transfer of right to use any goods for any purpose whether or not for a specified period, tax shall be levied at the rate of four per cent at all points of such transfer. However, due to lack of clarity regarding transaction falling under transfer of right/intangible goods, tax was not levied in the following cases:

In the Special Circle, Thiruvananthapuram, an assessee, the Kerala State Road Transport Corporation received ₹ 6.15 crore during the period 2006-07 to 2010-11 as income from advertisement on bus bodies which come under transfer of right to use did not assess the same to tax. This resulted in non-levy of tax including interest of ₹ 0.34 crore.

After this was pointed out in audit, the Government stated (November 2012) that action has been initiated to complete the assessment. Further developments are awaited (December 2012).

As per Entry 68 of the Third Schedule of the Act, intangible goods like Copyright, patent, REP License etc. are taxable at the rate of four per cent. In two<sup>12</sup> offices, right to use in respect of goodwill and sale of intangible assets like patent, copyright etc. were not assessed resulting in short levy of tax including penalty and interest amounting to ₹ 2.17 crore.

It is recommended that the Government may consider notifying the transactions that come under the scope of intangible and incorporeal goods exigible to tax as featured in the Schedule attached to the Maharashtra VAT Act.

<sup>12</sup> Special circle, Malappuram and special circle (produce) Maranchery.

### **Failure to detect evasion**

There is a general tendency among dealers in evasion prone commodities to evade tax through new methods. Identification of such attempts of tax avoidance is possible only through constant surveillance and intelligence operations and issue of necessary guidelines to curb such practices.

#### **(i) Absence of uniformity in valuation of Day Old Chicks (DOC)**

The Kerala State Poultry Development Corporation (KEPCO) is a Government of Kerala undertaking doing the business of selling DOC to farmers. The farmers in Kerala also effect inter-state purchase of DOC. While the average yearly market rate of (2010-11) KEPCO is ₹ 21 and tax rate is 12.5 per cent, in the case of inter-state purchase (2010-11) the farmers conceded the cost of DOC as ₹ 11.72 only and paid tax at the border check post. The department has not fixed a floor rate for DOC which resulted in undervaluation of DOC and escape of turnover of ₹ 30.42 crore and consequent loss of revenue of ₹ 3.84 crore.

(ii) In Special Circle, Palakkad, an assessee conceded (2006-07 to 2010-11) sale price of DOC in the range of ₹ 5.05 to ₹ 12.56. However, the average market price of DOC furnished by M/s KEPCO was in the range of ₹ 10.50 to ₹ 21.41 during these years. The minimum turnover calculated at the KEPCO rate comes to ₹ 35.98 crore, involving short levy of tax of ₹ 14.87 crore. No floor rates were fixed by the Department, resulting in forgoing of revenue to that extent.

After this was pointed out in audit, the Government stated (November 2012) that floor rates have since been fixed and circular instructions issued. Further developments are awaited (December 2012).

#### **(iii) Sale of chicken through Kunjipally check post to Mahe**

Live chicken is transported to Mahe (a part of Puducherry with an area of 9 sq. kms and a population of only 41,934 (2011 Census), through Commercial Tax Check Post (CTCP), Gopalapuram using transit pass which is surrendered at

CTCP, Kunjipally four kms away from Mahe. Scrutiny revealed that during the year 2010-11, for nine months 63.88 lakh kilograms of live chicken was transported. The data for the remaining three months though called for was not made available despite being requested. The average transportation of live chicken for the year was 85.18<sup>13</sup> lakh Kilograms. Taking into account the per capita average annual consumption of poultry meat in India as per the National Institute of Nutrition data, the chicken that could be consumed in Mahe was 5.04 lakh kilograms. The possibility that the excess quantity of 80.14 lakh kilograms of live chicken would have been sold in the State of Kerala cannot be ruled out.

The revenue loss on this account could be curbed only if the CTCP, Kunjipally was re-located at the entry/exit point to/from Mahe from the present location which is four kms away from Mahe.

After this was pointed out in audit, the Government stated (November 2012) that the intelligence wing has been strengthened to prevent such activities effectively. Further developments are awaited (December 2012).

#### **Encouragement of evasion through regularisation of Bogus C/F forms**

The inter-state cross verification report (February 2012) of declarations in Form C/Form F issued by the dealers in other states and submitted by the cashew dealers in the State of Kerala, by the Commercial Investigation Wing (CI) of the CTD revealed that 68 declarations in Form F covering a turnover of ₹ 1,501.02 lakh and 55 declarations in Form C covering a turnover of ₹ 1,003.57 lakh (total ₹ 2,504.92 lakh) relating to the period from 2005-06 to 2007-08 were found to be bogus and the short levy of tax, interest and penalty liable to be levied was ₹ 9.90 crore. The Department did not proceed further, considering that in similar cases, on representation by the dealers in cashew, availing of concessional rate of tax on their inter-state sales/stock transfer by producing bogus declarations in Form C/Form F relating to the period from 2003-04 to 2005-06, the Government in addition to regularising the bogus

<sup>13</sup> Based on the sale of Chicken for nine months made in State.

C/F Form declarations had ordered (July 2008)<sup>14</sup>, waiver of penalty, interest and all amount in excess of four percent which were due and leviable under the CST Act, as a one time measure.

The Government's decisions to regularise fraudulent C/F Forms had an adverse effect on departmental officers in taking timely and strict action against dealers who indulged in fraudulent transactions. The Government stated (November 2012) that the concession allowed was as a part of the package made in the Budget Speech (2007-08) by the Hon'ble Finance Minister and was done in public interest.

The Government stated (November 2012) that the intelligence wing has been strengthened to effectively prevent such activities. Further developments are awaited (December 2012).

It is recommended that while taking policy decisions the Government and top management of the Department may give utmost priority to honest trade practices by ensuring timely and strict action against violation of the Act and initiate measures to strengthen control system and avoid tax evasion.

#### **Inaction on bogus statutory forms detected by the Department**

The investigation teams verified the genuineness of declaration forms in the respective Commercial Tax Offices in New Delhi, Chattisgarh, Tamil Nadu, Karnataka, Andhra Pradesh and Maharashtra. Despite reports (May 2008 and March 2012) of investigation wing regarding evasion by use of bogus C/F forms in respect of 38 declarations covering a turnover of ₹ 80.96 lakh (out of 39 declarations in respect of Delhi and Chattisgarh) and 747 declarations covering a turnover of ₹ 1,873.60 lakh issued from Maharashtra relating to the period 2005-06 to 2009-10, the Department did not take any action to recover the tax of ₹ 5.03 crore recoverable in these cases.

#### **Delay in revision of floor rate in respect of plywood**

As per the directions of the CTD (April 2005) dealers had to pay the CST in advance on the inter-state sale of plywood at the checkposts. The Department

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<sup>14</sup> GO(Ms)No.136/08/TD. Dated: 7-7-2008.

fixed (February 2007) the floor rates for plywood based on the report of an expert committee consisting of Deputy Commissioners. The rate fixed earlier was proposed to be revised (August 2009) with a hike of fifteen per cent. Even though it was agreed to (April 2010) by the dealers, the rates were revised only in November 2011. The delay in revision of floor rates resulted in forgoing of revenue of ₹ 2.02 crore during 2010-11.

### Conclusion

No specific action plan has been initiated by the Department to bring in the dealers liable for registration under the tax net. Lack of co-ordination between the intelligence wing and the assessment wing was evident from the non-utilisation of secondary data for scrutiny of returns filed by dealers.

It was found that Government/top management did not evolve a mechanism whereby strict action could be taken against dealers who indulged in fraudulent transactions. Despite initiative of the intelligence wing in timely revision of floor rates, there was delay/failure on the part of the Department in fixing the same.

### Summary of Recommendations

The Government/Department may consider.

- Restoring audit assessment wing, Commercial Investigation Wing, and strengthen the Internal Audit Wing to ensure compliance of the provisions of the Acts and Rules and advise the Department to scrutinise annual returns of dealers beyond a fixed limit;
- Introducing a system of obtaining information periodically from other Departments/Boards etc. in respect of the persons registered with them and cross verify the same with KVATIS to trace the dealers whose turnover crossed the threshold limit and are liable for registration with the CTD;
- Taking into consideration the potential misuse of items covered by Form 16, follow up action on goods brought into the State to prevent its misuse;

- Notifying the nature of transactions which would come under the scope of intangible and incorporeal goods exigible to tax as featured in the Schedule attached to the Maharashtra VAT Act; and
- Taking timely action to revise floor rates in respect of evasion prone commodities and give utmost priority to honest trade practices by ensuring timely and strict action against violation of the act and initiate measures to strengthen control system and thereby avoid evasion.

[Audit paragraphs 2.11.12 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2012.

Notes furnished by the Government in their regard is included in Appendix II.]

16. Regarding the audit observation on tax evasion due to non registration of dealers the committee accepted the explanation furnished by the department.

17. The Committee sought the reason in detail regarding the non-registration of 73 stone crushing units out of 110 in K VATIS which in turn resulted the tax evasion of ₹ 39.20 lakh, as reported in the audit paragraph. The witness, Commissioner of Commercial Taxes Department detailed that, a thorough and detailed reply in this regard would be submitted within two weeks. He also explained the difficulties in collecting data regarding metal crusher units through out Kerala from the Pollution Control Board (PCB) and Local Self Government Department (LSGD) and the department's plan to develop a system for the verification of crusher units regarding jaw size.

18. The Committee opined that lack of co-ordination between Government agencies and Commercial Taxes Department (CTD) is the sole-reason for tax evasion as reported in this case which ultimately resulted the loss to the tune of ₹ 8.51 crore to the State exchequer.

19. With regards to the audit reference that the self assessed returns without cross verification caused huge amount of tax evasion the Committee suggested for

increasing the server capacity as the remedial measure. Responding to a question that, had any policy decision been taken in such cases, the witness Commissioner, Commercial Taxes Department informed that all such cases had been re-assessed. He also disclosed two innovative measures to overcome the realisation of tax arrears from the dealers adopted by the department such as, pure review of assessment order and collection of copy of bills from the people. At this juncture the Committee remarked that an efficient and constructive tax realisation system can bolster State exchequer.

20. The Committee pointed out that legislative intention was to levy tax from the registered branded items of multinational companies. But in practice, many products had not have full fledged trademark registration and hence tax would be levied at lesser rate than prescribed. The Committee commented that as tax of many items were abolished by Government without retrospective effect and tax for the past period was unlikely to be collected from the Bakery owners. In this regard the witness, Commissioner of Commercial Taxes deposed that dealers registered with the Patented Trade Mark office under the Trade Mark Act (TM Act 1999) were only eligible for tax concession. An official from the office of the Accountant General interferred to inform that all the cases under reference were got registered, but the departments contention was that many items did not have trademark registration.

21. The Committee urged the Taxes Department to furnish the details regarding the actual position of the cases, rate of tax and the action taken by the department in each cases to it within three months and the witness Commissioner of Commercial Taxes assured to do so.

22. The Committee evaluated that in cashew business sale of items were wrongly detailed as stock transfer even in public sector units. The Committee decided to recommend that Government should take an appropriate decision whether arrears of tax need to be realised from bakeries as it is a matter of policy.



23. The Committee accepted the explanation furnished by the Department regarding the audit observation about the misuse of Form 16.

#### Conclusions/Recommendations

24. The Committee remarks that lack of co-ordination between Government agencies and Commercial Taxes Department results in huge amount of tax evasion. Therefore it recommends that a synergic and symmetric co-ordination should be developed and maintained between Government agencies and the Taxes Department to avert the tax evasion in future.

25. The Committee opines that, self assessed returns without cross verification account for immense revenue lapse. Therefore it recommends that the server capacity of the IT resources in Commercial Taxes Department should be increased to enable the cross verification of accounts.

26. The Committee observes that certain bakery/food products sold under brand names registered under the Trade Mark Act, 1999 had been short levied against the provisions of KVAT which results in huge loss to the State Exchequer. It remarks that as tax of such items were abolished by government without retrospective effect, the government as matter of policy should take an appropriate decision whether arrears of tax need to be realised from bakeries. It also urges the department to intimate the Committee about the action taken in this regard at the earliest.

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	3	Taxes	The committee advocates the importance of timely reconciliation and opines that the question of compensation would be arises and that may result in revenue loss. Therefore it directs the Taxes department to submit a detailed report on the reconciliation activities carried out by them.
2	6	Taxes	The committee expresses its displeasure on the variation in cost of collection figures furnished by the Government with the figures booked by Accountant General. It directs the Government to furnish an infallible report in this regard at the earliest.
3	8	Taxes	Eventhough there has been certain reservation about the insignificant recovery position during 2007-08 to 2010-11, the Committee is impressed with the measures adopted by the department to curtail the revenue lapse since then. The Committee therefore emphasis the importance of prompt recovery proceedings on revenue lapse pointed out by audit and directs the department to submit an exhaustive report on the current scenario in revenue recovery.
4	10	Taxes	The Committee recommends that the internal audit wing of the Commercial Taxes Department should be strengthened and the government could ensure a mechanism for timebound settlement of the audit observations raised by the internal audit wing.

(1)	(2)	(3)	(4)
5	14	Taxes	The Committee recommends that non-cash surrogate incentive should be awarded to the officers of Commercial Taxes Department who perform well as a recognition of their commendable and devoted service.
6	15	Taxes	The Committee directs the Taxes Department to ensure that the annual return of an assessee should be filed along with their annual accounts itself.
7	24	Taxes	The Committee remarks that lack of co-ordination between Government agencies and Commercial Taxes Department results in huge amount of tax evasion. Therefore it recommends that a synergic and symmetric co-ordination should be developed and maintained between Government agencies and the Taxes Department to avert the tax evasion in future.
8	25	Taxes	The Committee opines that, self assessed returns without cross verification account for immense revenue lapse. Therefore it recommends that the server capacity of the IT resources in Commercial Taxes Department should be increased to enable the cross verification of accounts.
9	26	Taxes	The Committee observes that certain bakery/food products sold under brand names registered under the Trade Mark Act, 1999 had been short levied against the provisions of KVAT which results in huge loss to the State Exchequer. It remarks that as tax of such items were abolished by government without retrospective effect, the government as matter of policy should take an appropriate decision whether arrears of tax need to be realised from bakeries. It also urges the department to intimate the Committee about the action taken in this regard at the earliest.

## 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 ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Department of Commercial Taxes is under the control of the Principal Secretary, Taxes at the Government level and collection of tax under the KGST, KVAT and CST Acts is governed by the Commissioner of Commercial Taxes (CCT). Levy and collection is administered at grass root level by Commercial Tax Officers and Asst. Commissioners. Movement of goods into the territory of the State is regulated through check posts established at the border. Audit wing of the department conducts internal audit of KVAT returns and assessments under the KGST.
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 the Commercial Taxes Department and hence no remarks to offer against this 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& AG'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& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Collection under VAT, KGST and CST during the last five years when compared to budget estimate show that percentage of growth is less during 07-08 and 09-10.
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>During the year 07-08, rate of CST was reduced from 4% to 3%. Certain items such as marbles, tiles, air conditions, sanitary equipments, refrigerator, washing machine, micro wave oven, vaccum cleaner etc. was reduced from 20% to 12.5%. Further, coconut oil, oil cake, copra, beedi, beedi tobacco etc. were brought into the 1<sup>st</sup> schedule. The above has resulted decrease in the growth rate during 07-08 when compared to 06-07. Apart from this there was no entry tax collection during 07-08.</p> <p>As regards to 09-10, though the collection from oil companies has increased from Rs.2670.01 crores to Rs.2903.20 crores, the percentage of growth rate is only 9. Besides, collection achieved through amnesty scheme has decreased from Rs.120/-crores to Rs.52/-crores during 09-10.</p> <p>Even though the percentage of growth is less during 2009-10 (12.25%), there is considerable increase in the growth rate during 10-11, 11-12 and 12-13 as below:</p> <table border="1" data-bbox="464 768 991 901"> <thead> <tr> <th>Year</th> <th>VAT</th> <th>N VAT</th> <th>Total</th> <th>% of incr.</th> </tr> </thead> <tbody> <tr> <td>09-10</td> <td>6950.60</td> <td>6249.59</td> <td>13200.19</td> <td>14.08</td> </tr> <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>19.53</td> </tr> <tr> <td>12-13</td> <td>12616.95</td> <td>10268.88</td> <td>22885.83</td> <td>18.51</td> </tr> </tbody> </table> <p>The concessional rate of tax on CST was constant at 2%. The share of VAT collection has increased to some extent in 2012-13 due to 1% hike in the tax rate on vatiable goods.</p>	Year	VAT	N VAT	Total	% of incr.	09-10	6950.60	6249.59	13200.19	14.08	10-11	8395.54	7760.39	16155.93	22.39	11-12	10055.19	9255.35	19310.54	19.53	12-13	12616.95	10268.88	22885.83	18.51
Year	VAT	N VAT	Total	% of incr.																							
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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																										

	(c) Review of similar cases/complete schedule/subject 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	Assessee profile
	(c)	Paragraph No.	2.3
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Tax payable by five major dealers alone comes to Rs.7359.22 crores as per their returns, which requires reconciliation so as to rectify the differences, if any.
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>The no. of dealers registered at the end of 2009-10 was 170409 nos. and this has increased to 220848 by the end of 2012-13 as below:</p> <table border="1" data-bbox="513 321 879 493"> <thead> <tr> <th>Year</th> <th>No. of dealers</th> <th>Increase</th> </tr> </thead> <tbody> <tr> <td>09-10</td> <td>170409</td> <td>11202</td> </tr> <tr> <td>10-11</td> <td>178413</td> <td>8004</td> </tr> <tr> <td>11-12</td> <td>190746</td> <td>12333</td> </tr> <tr> <td>12-13</td> <td>220848</td> <td>30102</td> </tr> </tbody> </table> <p>The no. of presumptive dealers as on 31.3.2013 was 28733 nos. and their contribution is only Rs.10.44 crores which would come 0.004% of the total revenue.</p> <p><u>The 5 major assesseses of KGST are :</u></p> <ol style="list-style-type: none"> <li>1) M/s.Beverages Corprn. Ltd.</li> <li>-2) Indian Oil Corprn. Ltd</li> <li>3) Bharat Petroleum Corprn. Ltd</li> <li>4) Hindustan Petroleum Corprn. Ltd</li> <li>5) Reliance Industries Ltd.</li> </ol> <p>Collection from KSBC during 2011-12 was Rs.4740.74 crores and that from Oil Companies was Rs.4109.24 crores. Thus the total collection in the year 11-12 comes to Rs.8849.98 crores. This will include the CST collection and VAT collection and the KGST collection. At the same time, the KGST collection during the year is only Rs.8749.04 crores. This will include KGST collection from KSBC, Oil companies and other dealers such as bar hotels and distilleries etc. The figures will be reconciled with treasury figures shortly.</p>	Year	No. of dealers	Increase	09-10	170409	11202	10-11	178413	8004	11-12	190746	12333	12-13	220848	30102
Year	No. of dealers	Increase															
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12-13	220848	30102															
(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	Receipt of VAT per assessee
	(c)	Paragraph No.	2.4
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 receipt of VAT and sales tax per assessee during 11-12 was slightly higher when compared to that of 10-11.
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>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 measures as below:</p> <table border="1" data-bbox="470 388 1015 675"> <thead> <tr> <th>Year</th> <th>No. of dealers</th> <th>Increase</th> <th>Receipts (ST+VAT)</th> <th>Receipts per dealer</th> </tr> </thead> <tbody> <tr> <td>09-10</td> <td>170409</td> <td>11202</td> <td>12770.89 cr</td> <td>7.49 lakh</td> </tr> <tr> <td>10-11</td> <td>178413</td> <td>8004</td> <td>15833.11 cr</td> <td>8.90 lakh</td> </tr> <tr> <td>11-12</td> <td>190746</td> <td>12333</td> <td>18938.83 cr</td> <td>9.92 lakh</td> </tr> <tr> <td>12-13</td> <td>220848</td> <td>30102</td> <td>22313.68 cr</td> <td>10.10 lakh</td> </tr> </tbody> </table>	Year	No. of dealers	Increase	Receipts (ST+VAT)	Receipts per dealer	09-10	170409	11202	12770.89 cr	7.49 lakh	10-11	178413	8004	15833.11 cr	8.90 lakh	11-12	190746	12333	18938.83 cr	9.92 lakh	12-13	220848	30102	22313.68 cr	10.10 lakh
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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 ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Department has completed 4164 assessments under the KGST Act during 11-12 which was only 36.91% of arrears outstanding.
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>The pendency figured by the audit is found correct. The no. of KGST assessments to be completed as on 1.4.13 was 2530 nos. Of this, pending KGST assessments relating to non VAT period is only 36 nos. which could not be completed due to court intervention. Assessment completed under KGST during the current year (up to 30.11.2013) is 836 nos. (33%) leaving a balance of 1694 nos. Directions were already given to the assessing officers to complete all pending assessments up to 11-12 by the end of December-2013.</p> <p>In the review meeting convened by the Hon'ble Finance Minister of Kerala at Aluva on 12.12.13, and in the subsequent review meeting of performance conducted by the Secretary (Taxes) and CCT, the performance in this item of work has been reviewed particularly and directed to initiate stringent action against those officers whose performance are very poor. Accordingly, show cause notices were issued to the officers who are the least performers including this item of work as per notice No.A9-1192/14 /CT dtd.10.1.14. Replies from the officers are under processing.</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	Cost of collection
	(c)	Paragraph No.	2.6
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 expenditure on collection during 11-12 as increased to 44.06% when compared to the expenditure incurred during 10-11.
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>The increase in the cost of collection is largely due to the recommendation of the 9<sup>th</sup> Pay Revision Commission implemented during 11-12 with retrospective effect from 1.7.2009 onwards. As the pay and allowances of the employees increased, the wages component increased during the year 11-12 onwards. Also, consequent to computerization of the department, capital expenses towards initial infrastructure has increased to a large extent.</p> <p>However, a close reading of collection under KGST and VAT with expenditure incurred for the period from 2009-10 to 12-13 has revealed that cost of collection which was 0.85% during 09-10 has decreased considerably to 0.66% during 12-13 as show below:</p> <table border="1" data-bbox="472 577 998 733"> <thead> <tr> <th>Year</th> <th>Tax (ST+VAT)</th> <th>Exp. on colln.</th> <th>% of exp. on colln.</th> </tr> </thead> <tbody> <tr> <td>09-10</td> <td>12770.89</td> <td>108.44</td> <td>0.85</td> </tr> <tr> <td>10-11</td> <td>15843.11</td> <td>111.26</td> <td>0.70</td> </tr> <tr> <td>11-12</td> <td>18938.33</td> <td>142.47</td> <td>0.75</td> </tr> <tr> <td>12-13</td> <td>22885.83</td> <td>152.06</td> <td>0.66</td> </tr> </tbody> </table> <p>From the above it can be seen that the observation of AG is not fully correct. Expenditure for collection during 10-11 was Rs.111.26 crores and that for 11-12 was Rs.142.47 crores. The increase is only 35.64% and not 44.06% as pointed out by the AG.</p>	Year	Tax (ST+VAT)	Exp. on colln.	% of exp. on colln.	09-10	12770.89	108.44	0.85	10-11	15843.11	111.26	0.70	11-12	18938.33	142.47	0.75	12-13	22885.83	152.06	0.66
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**Additional points regarding Para No: 2.6 contained in the  
Report of the C&AGI for the year ended 31/03/2012.**

Audit Observation					RMT given to the audit observation	Additional Points																											
<p>The gross collection of revenue receipt under the head Tax on sales, trade etc., expenditure incurred on collection and the percentage of expenditure to gross collection during 2007-08 to 2011-12 along with the all India average percentage of expenditure on collection to gross collection for relevant years is mentioned below.</p>					<p>The increase in the cost of collection is largely due to the recommendation of the 9<sup>th</sup> pay Revision Commission implemented during 11-12 with retrospective effect from 01.07.2009 onwards. As the pay and allowances of the employees increased, the wages component increased during the year 11-12 onwards. Also, consequent to computerization of the department, capital expenses towards initial infrastructure has increased to a large extent.</p> <p>However, a close reading of collection under KGST and VAT with expenditure incurred for the period from 2009-10 to 12-13 has revealed that cost of collection which was 0.85% during 09-10 has decreased considerably to 0.66% during 12-13 as shown below:</p>	<p>It is submitted that the reason for sudden jump of the cost of collection of Rs. 115.61 Cr. in 2010-11 to Rs. 166.55 Cr. in 2011-12 is mainly due to implementation of the Pay Revision and Capital investment on computerisation.</p>																											
Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage over the preceding year																													
(Rs. in crore)																																	
2007-08	11,371.76	89.72	0.96	0.82																													
2008-09	11,377.13	102.59	0.90	0.85																													
2009-10	12,776.89	126.01	0.99	0.88																													
2010-11	15,212.11	135.64	0.73	0.96																													
2011-12	18,938.83	166.55	0.88	0.75																													
<p>Audit noticed that the expenditure on collection was higher than the all India average. The increase in revenue collection by 19.62% during the year is appreciated, but the corresponding increase in expenditure on collection of revenue amounted to 44.06% which is significant considering the reduction in all India average.</p>					<table border="1"> <thead> <tr> <th>Year</th> <th>Receipts (SI+VAT) (in Cr.)</th> <th>Exp. on colln.</th> <th>% of exp. on colln.</th> </tr> </thead> <tbody> <tr> <td>09-10</td> <td>12770.89</td> <td>108.44</td> <td>0.85</td> </tr> <tr> <td>10-11</td> <td>15843.11</td> <td>111.26</td> <td>0.70</td> </tr> <tr> <td>11-12</td> <td>18938.83</td> <td>142.47</td> <td>0.75</td> </tr> <tr> <td>12-13</td> <td>22885.83</td> <td>152.06</td> <td>0.66</td> </tr> <tr> <td>13-14</td> <td>25376.25</td> <td>157.02</td> <td>0.62</td> </tr> <tr> <td>14-15</td> <td>27870.89</td> <td>177.31</td> <td>0.64</td> </tr> </tbody> </table> <p>From the above it can be seen that the observation of AG is not fully correct. Expenditure for collection during 10-11 was ₹ 111.26 crores and that for 11-12 was ₹ 142.47 crores. The increase is only 33.64% and not 44.06% as pointed out by the AG.</p>	Year	Receipts (SI+VAT) (in Cr.)	Exp. on colln.	% of exp. on colln.	09-10	12770.89	108.44	0.85	10-11	15843.11	111.26	0.70	11-12	18938.83	142.47	0.75	12-13	22885.83	152.06	0.66	13-14	25376.25	157.02	0.62	14-15	27870.89	177.31	0.64
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12-13	22885.83	152.06	0.66																														
13-14	25376.25	157.02	0.62																														
14-15	27870.89	177.31	0.64																														

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 ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/ Review	Tax revenue collected on tax on sales, trade etc. during last two years indicates that during 11-12 collection of sales tax increased by Rs.1352.31 crore and VAT collection increased by Rs.1706.59 crore.
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>During 09-10 VAT collection was Rs.6950.60 crores and non-VAT collection was Rs.6249.59 crores. Collection from both VAT and non VAT sector has increased to Rs. 12616.95 crores and Rs.10268.88 crores respectively during 12-13. Details of collection under VAT and non VAT sector from 09-10 onwards are given below.</p> <table border="1" data-bbox="485 415 1021 564"> <thead> <tr> <th>Year</th> <th>VAT</th> <th>Growth</th> <th>Non VAT</th> <th>Growth</th> </tr> </thead> <tbody> <tr> <td>09-10</td> <td>6950.60</td> <td>14</td> <td>6249.59</td> <td>14</td> </tr> <tr> <td>10-11</td> <td>8395.54</td> <td>21</td> <td>7760.39</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> </tbody> </table> <p>As observed by the AG, the increase represents for increase in the volume of business, price hike, e-payment, KVATIS scrutiny and enforcement measures.</p>	Year	VAT	Growth	Non VAT	Growth	09-10	6950.60	14	6249.59	14	10-11	8395.54	21	7760.39	24	11-12	10055.19	20	9255.35	19	12-13	12616.95	25	10268.88	11
Year	VAT	Growth	Non VAT	Growth																							
09-10	6950.60	14	6249.59	14																							
10-11	8395.54	21	7760.39	24																							
11-12	10055.19	20	9255.35	19																							
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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&amp; AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Impact of audit Revenue Impact
	(c)	Paragraph No.	2.8
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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, we pointed out non/short levy, under assessment/loss of revenue, incorrect exemption, application of incorrect rate of tax etc., with revenue implication of Rs.3155.92 crore in 10840 paragraphs. Of these, the department/Government accepted audit observations involving Rs.1030.98 crore and had since recovered Rs.32.58 crore. We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.
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.	Assessment has been completed/ revised in almost all cases where short levy pointed out by the audit is sustaining. The amount pending for realization has been recommended for RR action. Review on progress of collection under RR by the Revenue Department and the IAC's are monitoring at district level and higher level. During the last review meeting of district DCs it was directed that 50% of the collectable demand of IACs under RR shall be recovered by the end of March 2014. The position as on 28.2.14 is that the IACs have collected 37% of the collectable arrears.
(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 ended 31.3.2012
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 year 11-12 against the target of 132 units, 32 units were audited leaving 100 units un-audited. There was no clearance of observations by settlement which indicated poor response to the observation of internal audit wing. The department has not prepared a separate internal audit manual.
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>The department has taken decision for the revival of audit assessment by replacing the internal audit wing. The Internal Audit wing has conducted 146 inspections and prepared audit reports including 2160 observations involving short levy of Rs.50.08 crores up to 31.3.12 as listed below.</p> <table border="1" data-bbox="467 398 1011 616"> <thead> <tr> <th>Year</th> <th>Inspection reports</th> <th>Audit observations</th> <th>Amount involved</th> <th>Observation settled</th> </tr> </thead> <tbody> <tr> <td>09-10</td> <td>12</td> <td>417</td> <td>4.52 cr</td> <td>129</td> </tr> <tr> <td>10-11</td> <td>46</td> <td>919</td> <td>3.30 cr</td> <td>234</td> </tr> <tr> <td>11-12</td> <td>32</td> <td>445</td> <td>27.38 cr</td> <td rowspan="2">Details not received</td> </tr> <tr> <td>12-13</td> <td>56</td> <td>369</td> <td>14.88 cr</td> </tr> <tr> <td><b>Total</b></td> <td><b>146</b></td> <td><b>2160</b></td> <td><b>50.08 cr</b></td> <td></td> </tr> </tbody> </table> <p>The DC (Internal Audit) has disclosed that there are only 3 ACs and 6 CTOs are available for the audit purpose. The ACs are mainly attending in the audit of special circles and works contract offices. The CTOs are attending audit of ordinary circles. Due to scarcity of manpower, entire units could not be audited in a year. However the internal audit wing has conducted inspections and prepared reports regarding 54 units during the current year up to 15<sup>th</sup> December 2013.</p> <p>A comprehensive manual for VAT is under preparation in which guidelines for the functioning of Internal audit wing is also included.</p>	Year	Inspection reports	Audit observations	Amount involved	Observation settled	09-10	12	417	4.52 cr	129	10-11	46	919	3.30 cr	234	11-12	32	445	27.38 cr	Details not received	12-13	56	369	14.88 cr	<b>Total</b>	<b>146</b>	<b>2160</b>	<b>50.08 cr</b>	
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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	Result of audit
	(c)	Paragraph No.	2.10
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 2011-12 the audit test checked the records of 175 units relating to KGST and VAT. The Accountant General detected under assessment of tax and other irregularities involving Rs.810.11 crores in 2539 cases. The department accepted 537 cases involving 6.68 crores in 11-12 and the rest in earlier 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.	Action is being proceeded to collect the amount where the audit objections are accepted and assessments are revised and created additional 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	--
	(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	Performance audit on "levy and collection of VAT on evasion prone commodities/areas in Commercial Taxes Department"
	(c)	Paragraph No.	2.11.1 -- Highlights
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Highlights - cross verification of data/information obtained from Pollution Control Board, Department of Mining and Geology, non fixation of revised floor rate on plywood, day old chips etc. - leads to tax evasion.
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 short levy / tax evasion as observed by the AG is being discussed in the coming paras.
	(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	2.11.2 Introduction 2.11.3 Reason for selection 2.11.4 Organisational set up 2.11.5 Objectives of audit 2.11.6 Audit criteria 2.11.7 Scope and methodology 2.11.8 Interaction with Govt. Department 2.11.9 Acknowledgment
	(c)	Paragraph No.	2.11.2 to 2.11.9
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para./Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	2.11.2 Introduction 2.11.3 Reason for selection 2.11.4 Organisational set up 2.11.5 Objectives of audit 2.11.6 Audit criteria 2.11.7 Scope and methodology 2.11.8 Interaction with Govt. Department 2.11.9 Acknowledgment
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.	No Remarks
(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	Trend of Revenue
	(c)	Paragraph No.	2.11.10
	(d)	Report No. and Year	C& AG report ended 31.3.2012.
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Variation between budget estimate and actual collection during the period from 06-07 to 10-11 was less than 10%. The low percentage of variation is appreciable.
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>The AG has appreciated for low percentage of variation between budget estimate and the actual collection during the period between 06-07 to 10-11. The main reason for non achievement of budget estimate during 07-08 was less collection under CST due to rate difference, decrease in the rate of tax on marble, granite, tiles etc. and court decision of the Hon'ble High Court of Kerala that the Entry Tax Act is ultra vires.</p> <p>The percentage of variation between budget estimate and actual collection is very less during 11-12 and 12-13 as below.</p> <table border="1" data-bbox="463 545 1000 652"> <thead> <tr> <th>Year</th> <th>Budget estimate</th> <th>Actual collection</th> <th>Variation</th> <th>% of variation</th> </tr> </thead> <tbody> <tr> <td>11-12</td> <td>19442.10</td> <td>19310.54</td> <td>-131.56</td> <td>-0.68</td> </tr> <tr> <td>12-13</td> <td>23115.77</td> <td>22885.65</td> <td>-230.12</td> <td>-1.00</td> </tr> </tbody> </table>	Year	Budget estimate	Actual collection	Variation	% of variation	11-12	19442.10	19310.54	-131.56	-0.68	12-13	23115.77	22885.65	-230.12	-1.00
Year	Budget estimate	Actual collection	Variation	% of variation													
11-12	19442.10	19310.54	-131.56	-0.68													
12-13	23115.77	22885.65	-230.12	-1.00													
(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	System deficiencies Scrutiny of annual returns
	(c)	Paragraph No.	2.11.11.1
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Out of 4490 returns received detailed scrutiny was conducted only in 1296 (31%) cases. The remaining 3194 (69%) returns were considered as deemed to have been assessed on self assessment. From the above 31% of the case the department could raise an additional demand of Rs.50.57 crores. This is a clear indicator of the revenue potential of the detailed scrutiny.
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.	Findings of the AG is Noted. The table below illustrates details of annual return scrutiny (with audited statement) and the financial result for the past two years which indicates considerable increase in the number of annual return scrutinized and the financial result as well.				
		Year	No. of returns to be scrutinized	No. of return scrutinized	% of scrutiny	Add. demand created (crores)
		11-12	37488	34234	91%	151.71
		12-13	36149	33824	94%	199.09
		It was directed that scrutiny of annual return with 13, 13A is mandatory. Directions are also issued to complete the annual return scrutiny up to the period of 11-12 on or before 31.1.2014. Regarding monthly return scrutiny, monthly returns of every dealers are scrutinised once in 3 months and hence percentage of scrutiny is 33.3%. It means that monthly returns of every dealers are scrutinized once in every 3 months. Progress in the return scrutiny is reviewed in the monthly meeting of DCs & DC(II)s.				
(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 abolition of Audit Assessment Wing
	(c)	Paragraph No.	2.11.11.2
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 abolition of audit assessment wing has resulted in non inspection of local units. In the KVAT regime, where assessment is deemed to be completed on self declaration, the need for a dedicated audit assessment wing for scrutiny is essential.
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 Govt. have decided in principle for the restoration of audit assessment wing with a view to strengthen the process of audit as there is limitation to extent the working of internal audit wing with the limited manpower now available. Further, as pointed out by the AG conducting audit and monitoring the progress achieved by the assessing officers spread across the state from the headquarters at Trivandrum is not feasible in the present scenario. Therefore, the department is looking forward for a complete restructuring of audit wing on regional basis.
(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	Low achievement by Internal Audit
	(c)	Paragraph No.	2.11.11.3
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Since the chance for evasion are more on self assessment returns, the percentage coverage of internal audit wing needs to be increased to ensure that all the dealers comply with the provisions of the Act.
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>The Internal Audit Wing of the CTD commenced functioning with effect from 1.6.2009.</p> <p>The department has taken decision for the revival of audit assessment by replacing the internal audit wing. The Internal Audit wing has conducted 12 inspections and prepared audit reports including 417 observations involving short levy of Rs.4.52 cores during the year 2009-10.</p> <p>The Internal Audit wing has conducted audit inspections in 146 circle offices up to 12-13 and pointed out 2160 defects involving short levy of Rs.50.08 crores as below.</p> <table border="1" data-bbox="490 577 1016 765"> <thead> <tr> <th>Year</th> <th>Inspection reports</th> <th>Audit observations</th> <th>Amount involved</th> </tr> </thead> <tbody> <tr> <td>09-10</td> <td>12</td> <td>417</td> <td>4.52 cr</td> </tr> <tr> <td>10-11</td> <td>46</td> <td>919</td> <td>3.30 cr</td> </tr> <tr> <td>11-12</td> <td>32</td> <td>445</td> <td>27.38 cr</td> </tr> <tr> <td>12-13</td> <td>56</td> <td>369</td> <td>14.88 cr</td> </tr> <tr> <td>Total</td> <td>146</td> <td>2160</td> <td>50.08 cr</td> </tr> </tbody> </table> <p>The Internal Audit Wing consists of 1 DC, 3 ACs and 6 CTOs with its headquarters at Tvpm. With this limited manpower, the internal audit wing has managed to conduct audit inspection in 54 units during this year up to 30.11.2013.</p> <p>For proper follow up on the issue of clearance of observations pointed out by the IAW it has been directed to review the progress and submit report showing the result of audit to the CCT by the DC (IA) in every month.</p>	Year	Inspection reports	Audit observations	Amount involved	09-10	12	417	4.52 cr	10-11	46	919	3.30 cr	11-12	32	445	27.38 cr	12-13	56	369	14.88 cr	Total	146	2160	50.08 cr
Year	Inspection reports	Audit observations	Amount involved																							
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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	
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**Action taken Notes on C& AG's Reports**

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Merger of Commercial Investigation Wing with the Intelligence Wing
	(c)	Paragraph No.	2.11.11.4
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Identification of tax avoidance by dealers through consistence with data and returns from financial institutions and other departmental agencies - formation of economic intelligence wing - reg.
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.	As per Order No.G.O(MS)179/13/TD dtd.24.10.2013, an Economic Int. wing has been constituted which started functioning w.e.f. 18.11.2013. The wing consists of 2 ACs and 4 CTOs with its Headquarters at Tvpm. Due to shortage of manpower, functioning of IAW and AAW will not go together. So also functioning of Commercial Investigation Wing and Economic Int.Wing will not go together with the existing staff strength. The Govt. is intending for the restoration of AAW replacing the IAW with a view to strengthening the audit process.
(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	Methods of tax evasion Non Registration of dealers
	(c)	Paragraph No.	2.11.12.1
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Department of Economic and Statistics of Kerala had statistics of Rs. 13.24 lakhs units in the non agricultural field - difference categories - the department had not mad use of the information supplied by statistics wing to bring unregistered dealers under tax net.
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>On going through the table, it is noted that, 11 lakhs of units in the non agricultural field without having any registration represents for in the sector of manufacturing and retail trading. The number of units stated have been engaged in the manufacturing section (4.90 lakhs) seems to be an inflated figure. Anyhow, 80% of such units are related to handloom and coir industry which are not exigible to tax under KVAT Act. Regarding the number of units in the retail business the figures are more or less acceptable. 80% of retail dealers would fall below the threshold of assessable minimum of 10 lakhs. Hence there is no much relevance in the findings of the AG as it is evidence from the observation that the total revenue from presumptive dealers (29000 nos.) comes to 0.004% of the total revenue during a year.</p> <p>In the Finance Act 2013 , a new provision namely section 18(B) was introduced whereby a new registrant scheme has been implemented. As per the said provision, dealers against whom no action has been initiated by the department prior to 31.3.13, no assessment or penalty will be proceeded if they take registration on or before 30.9.2013 from this category, works contractors, importers, manufacturers, companies and dealers liable to registration irrespective of turnover has been excluded. The total no. of dealers applied for registration was 11178 nos. and granted registration in 10420 nos.</p> <p>Regarding the report submitted by the committee headed by the DC(I) Tvm, the core issue was restructuring of assessment and Int. wing to enable better tax administration and thereby increasing collection. No. of dealers registered/ unregistered has no direct relation with the report of the committee</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	Cross verification of data obtained from State Pollution Control Board in respect of Stone crushing units
	(c)	Paragraph No.	2.11.12.2(1)
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Non utilization of the data obtained from the State Pollution Control Board revealed that out of 110 stone crushing units registered with PCB, 73 units were not registered in KVATIS involving a tax evasion of Rs.29.20 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.

The department has gathered details of metal crushing units from the department of Pollution Control Board at District level and cross examined the details with department figures as below.

District	No. of units regd. With CTD	No. of units regd. With PCB
Trivandrum	33	21
Kollam	79	112
Pathanamthitta	52	101
Alleppey	13	12
Kottayam	77	81
Idukki	43	43
Ernakulam	257	206
Thrichur	68	88
Palakkad	81	78
Maleppuram	107	112
Kozhikkode	69	84
Wayanad	18	27
Kannur	129	83
Kasargode	52	36
<b>Total</b>	<b>1078</b>	<b>1064</b>

From the above it is noticed that the no. of units registered with the Department of Commercial taxes is higher than that registered with the PCB. However directions are given to the DCs and DC(l)s to go through the data and book the dealers who are still abstaining from taking registration.

	(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	Cross verification of data obtained from Mining and Geology Department in respect of Stone Crushing units
	(c)	Paragraph No.	2.11.12.2(2)
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 information obtained from Mining and Geology Department revealed that out of 37 stone crushing units registered with the department, 22 units were not registered in KVATIS involving a tax evasion of Rs.8.51 crore.
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>The Department has not collected details from the Department of Mining and Geology and cross checked with the department figures. Since the data collected from the Department of Pollution Control Board covers all units of metal crushing and consent from Pollution Control Board is a must for commencing metal crushing units in Kerala. There is only a very little chance for excluding of units from the list supplied by the Pollution Control Board. However details will be gathered from the Department of Mining and Geology and cross check the details with department figures at district level.</p> <p>The Int. wing of the department has been conducting inspection into the metal crushing units both compounded and non compounded so as to unearth tax evasion if any practiced by those units. The DC(I)s are directed to intensify such operations further more to achieve better results.</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	Cross verification of data obtained from department of Industries and Commerce in respect of Plywood manufacturers
	(c)	Paragraph No.	2.11.12.2(3)
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 details collected from the department of Industries and Commerce revealed that out of the 768 units registered with Industries and Commerce Department in Ernakulam district 283 dealers were not found registered under the KVAF Act.
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>Complete details of unregistered units in the field of plywood manufacturing will be collected and get them registered under the VAT Act. The DC(I), Ekm has been specially instructed to conduct more inspections into the plywood units, book cases and bring them to tax net.</p> <p>The table given below show that there is considerable increase in the no. of registered dealers in plywood industry year after year under administrative control of the DC, Mattancherry.</p> <table border="1" data-bbox="500 525 933 581"> <thead> <tr> <th><u>2009-10</u></th> <th><u>10-11</u></th> <th><u>11-12</u></th> <th><u>12-13</u></th> </tr> </thead> <tbody> <tr> <td>339 nos.</td> <td>387 nos.</td> <td>434 nos.</td> <td>469 nso.</td> </tr> </tbody> </table>	<u>2009-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>	339 nos.	387 nos.	434 nos.	469 nso.
<u>2009-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>							
339 nos.	387 nos.	434 nos.	469 nso.							
(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 &amp; AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject / Title of the Review Paragraph	Cross verification of check post return with self assessed returns
	(c)	Paragraph No.	2.11.12.3
	(d)	Report No. and Year	C & AG report for the year ended March 2012
II	(a)	Date of receipt of the Draft Para / Review in the Department	29.06.2012
	(b)	Date of Department's Reply	
III		Gist of Paragraph / Review	M/s. Regma Ceramics Ltd. is a dealer in ceramic/vettrified tiles. As per the annual returns the assessee paid on advance tax of Rs. 4.43 Crore during 2009-10 based on floor rates fixed by the Commissioner of Commercial Taxes while bringing Ceramic tiles from outside the state. The price of goods imported based on the advance tax worked out to Rs. 35.28 crore but the assessee conceded a sales turnover of Rs. 32.40 crore only. This resulted in turnover of Rs. 2.78 crore escaping assessment and consequent evasion of tax, cess and interest of Rs. 41.06 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><b>M/s Regma Ceramics Ltd 2009-10</b></p> <p>In the instant case the dealer had brought goods from Karikkal in Tamil Nadu and not from Morbi, Gujarat. In Circular 3/08 dated 29.01.2008, the details of freight charges annexed is with regard to the lowest freight charges from Gujarat to various destinations in Kerala. Advance tax was paid at check post on the basis of above rate. This does not mean, that they have to pay freight applicable to Morbi, Gujarat, a distant place located in North India for this particular transaction. So the stand taken by the AG is not correct because the value of goods stock transferred (In) as per returns and accounts is Rs. 29,47,18,414 only. But the AG has worked out the stock transfer (In) value as Rs. 35,43,31,824 by reckoning the advance tax paid Rs. 4,47,67,812/-. In the instant case, value of goods the floor rate, sale value conceded by the dealer etc was verified by the assessing authority and reported that the sale value conceded is more than the floor rate fixed in the Circular No. 3/08 dated 29.01.2008. Since the selling rate of the assessee is higher than the floor rate, there is no question of under valuation in this case.</p> <p>It is also observed by the Division Bench of the Honorable High Court of Kerala in a similar case in judgment dated 15.06.2012 in UK Monu Timber Vs. State of Kerala reported in KTR 2012(3) 111 that the value adopting rate cited in circular is not applicable in all cases.</p> <p>In such situations the actual freight charges paid only can be adopted for assessment purpose. Considering the facts of the case and legal position the audit enquiry is unsustainable and hence may 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 Report

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Result of cross verification of registered dealers.
	(c)	Paragraph No.	2.11.12.4 (a) (1)
	(d)	Report No. and Year	C&AG Report ended 31.03.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	03.06.2012
	(b)	Date of Department's Reply	03.11.2012
III		Gist of Paragraph/Review	On verification of assessment records of ten dealers and it was found that nine bakery products which were sold under different trademarks like Fresh, Best, Dev Snacks, Elite, Asian Ojin were taxed as unregistered branded food products at the rate of four per cent instead of the correct rate of 12.5%. This resulted in short realisation of tax of ₹ 36.84 crore.
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.Kilban Foods India (P) Ltd. 2006-07 to 2010-11</u></p> <p>M/s.Kilban Food (India) P Ltd., an assessee on the rolls of Assistant Commissioner, Special Circle II, Kozhikode has returned the turnover of pickles at the rate of 4% taxable treating the commodity as Food products - unbranded. But the dealer is a registered trade mark holder with brand "Happy" as per the details obtained by the Audit Party from the Controller General of Patents, Designs and Trade Marks, Mumbai. They also detected that the dealer is marketing the product Pickle with logo of Happy and therefore it is branded pickle and liable to pay tax @ 12.5% as per order No.C7-42425/05/CT dated 3.7.2006. As such the assessee is liable to pay tax @ 12.5% instead of 4% for the period from 2006-07 to 2010-11 and also liable to pay interest under Section 31(5) read with sub section 6 of KVAT Act. They have also suggested that the assessee is liable to pay penalty for an amount not exceeding twice the amount of tax or other amount evaded or sought to be evaded.</p> <p>Subsequently, the assessing authority, in the interest of revenue, completed the assessment as per order No.32110318574/2007 dated 27.4.2012 creating a demand of Rs.1349656/- ( VAT 848840 + Interest 500816) accepting the actual turnover of pickles returned during the year 2006-07 after rejecting the contention of the dealer that specific registration of every commodity is essential to get the status under Section 28 of TM Act 1999 and they have registered "Jam", "Soft Drinks", "Syrup" and "Fruit Juices" along with the Emblem Happy and goods Pickles was never registered with Trade Mark Act 1999 and hence it has rightly returned Pickles vide entry 49 taxable at 4%. The Assessing Authority has also proposed to revise the assessment for the remaining years.</p> <p>Though notice were issued in similar as line to the years 2007-08 to 2010-11 no hasty assessment was done as the assessment was questioned by the dealer before the Hon'ble High Court of Kerala in WP(C) 12306/12 which is at present learnt to have reserved for orders.</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**

		COMMERCIAL TAXES
I	(a)	Department
	(b)	Subject/Title of the Review
	(c)	Paragraph No.
	(d)	Report No. & Year
II	(a)	1. Date of receipt of the Draft Para/Review in the Department
	(b)	Date of Department's Reply
III		Gist of the Paragraph/Review
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement with reasons for disagreement and also attach copies of relevant documents where necessary.

M/s. Fresh Products , 1 Circle, Ernakulam.  
 The details available on the website of the Controller General of Patents, Designs and Trademark, Mumbai were verified with the assessment records it was found that nine bakery products which were sold under different trade mark like Fresh, Best, Dev Snacks, Elite, Asian, Ojhn were taxed as unregistered branded food products @ 4% instead of correct rate of 12.5%. This resulted short realisation of tax of Rs. 170.64 lakhs (Tax Rs. 52.78 lakhs , Penalty Rs. 105.56 lakhs, Interest Rs. 12.31 lakhs , total Rs. 170.65 lakhs).

**REMEDIAL ACTION TAKEN**

(a)	Improvement in system and procedures, including internal control	M/s. Fresh Products , I Circle, Ernakulam.(2006-07 to 2010-11)																					
		<p>M/s. Fresh Products is a registered dealer on the rolls of the CTO, I Circle, Ernakulam and the assessing authority completed the assessment for the years 2006-07 to 2010-11 vide proceedings dated 08.10.2013 and the penalty proceedings dated 29.12.2014 under Section 67(1)(d) of the KVAT Act. The details of the tax effect, interest and penalty as shown below.</p> <table border="1" data-bbox="532 451 959 718"> <thead> <tr> <th>Year</th> <th>Tax effect with interest</th> <th>Penalty with interest</th> </tr> </thead> <tbody> <tr> <td>2006-07</td> <td>701615</td> <td>1505142</td> </tr> <tr> <td>2007-08</td> <td>1239598</td> <td>2672186</td> </tr> <tr> <td>2008-09</td> <td>1689626</td> <td>3626408</td> </tr> <tr> <td>2009-10</td> <td>1774383</td> <td>3833051</td> </tr> <tr> <td>2010-11</td> <td>2736271</td> <td>5956059</td> </tr> <tr> <td>Total</td> <td>8141493</td> <td>17592846</td> </tr> </tbody> </table> <p>The dealer filed appeals before the Deputy Commissioner(Appeals), Ernakulam against the assessment proceedings and have obtained conditional stay by remitting 30% of the total dues to Rs. 2442448/- in KVATA No. 3246,3247,3248,3249 and 3250 dated 10.02.2014. In the case of penalty Revenue Recovery steps has been initiated and the dealer filed revision petitions before the Deputy Commissioner, Ernakulam.</p>	Year	Tax effect with interest	Penalty with interest	2006-07	701615	1505142	2007-08	1239598	2672186	2008-09	1689626	3626408	2009-10	1774383	3833051	2010-11	2736271	5956059	Total	8141493	17592846
Year	Tax effect with interest	Penalty with interest																					
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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																						

Action taken Notes on C& AG's Reports

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Result of cross verification of registered dealers.
	(c)	Paragraph No.	2.11.12.4 (a) (3)
	(d)	Report No. and Year	C&AG Report ended 31.03.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	03.08.2012
	(b)	Date of Department's Reply	03.11.2012
III		Gist of Paragraph/Review	On verification of assessment records of ten dealers and it was found that nine bakery products which were sold under different trademarks like Fresh, Best, Dev Snacks, Elite, Asian Ojin were taxed as unregistered branded food products at the rate of four per cent instead of the correct rate of 12.5%. This resulted in short realization of tax of ₹ 36.84 crore.
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.

Best Bakery, 2<sup>nd</sup> Circle, Ernakulam.

M/s. Best Bakery, Jews Street, Ernakulam bearing TIN 32071640366 is a registered dealer born on the rolls of the Commercial Tax Officer, 2<sup>nd</sup> Circle, Ernakulam. The assessee is a dealer in Bakery products.

The assessee filed annual return for the years 2006-07 to 2010-11 as detailed below. The assessee has conceded a turnover of cakes/bakery products as unbranded and admitted tax @ 4%.

Year	Total Turnover	Taxable Turnover
2006-07	1,07,54,566	95,57,805
2007-08	1,45,01,444	1,45,01,444
2008-09	1,70,09,423	1,60,78,152
2009-10	1,80,43,854	1,64,87,413
2010-11	2,23,77,273	2,04,01,171

Subsequently as per details made available from Controller General of Patents & Trademarks, Mumbai it was seen that the assessee have sold cakes & bakery products with registered trade mark 'Best'.

Hence notice u/s 25(1) of KVAT Act 2003 were issued to the assessee for the period from 2006-07 to 2010-11. Assessment order were also passed along with penalty u/s 67(1) (d) of KVAT Act 2003 for filing untrue returns for the period from 2006-07 to 2010 as detailed below.

Year	Turnover of bakery products assessed @ 4% in the annual return filed	Balance Tax due @ 8.5%	Interest dues	Cess due	Penalty imposed u/s 67(1)(d)
06-07	82,68,046	5,32,852	3,51,082	-	10,65,704
07-08	84,04,608	7,14,382	3,85,772	-	14,28,784
08-09	86,78,506	8,22,503	3,48,905	8,225	16,81,458
09-10	1,09,86,872	9,32,167	2,82,187	9,322	18,28,878
10-11	1,40,41,933	11,83,564	2,16,990	11,836	24,11,000

Aggrieved by the order the assessee filed writ petition No. WP(C) No. 2426/2013 before the Hon'ble High Court of

		<p>Kerala. Simultaneously filed an appeal before the Deputy Commissioner (Appeal), Ernakulam. The Hon'ble High Court directed the Appellate Authority to dispose the stay petition within one month. Accordingly stay is sanctioned by the Deputy Commissioner (Appeal) on condition that the assessee should pay Rs. 30 lakhs within one month and furnish security for the balance.</p> <p>As per stay order KVATA/110/13/TD 114/13 and 106/13, 107/13, 109/13, 116/13 and 119/13 the dealer paid a lumpsum amount of Rs.30,00,000.00 (Rs.Thirty lakh only) as per chalan No.296/23-05-2013</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/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	Result of cross verification of registered dealers.
	(c)	Paragraph No.	2.11.12.4 (a) 4
	(d)	Report No. and Year	C&AG Report ended 31.03.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	03.08.2012
	(b)	Date of Department's Reply	03.11.2012
III		Gist of Paragraph/Review	On verification of assessment records of ten dealers and it was found that nine bakery products which were sold under different trademarks like Fresh, Best, Dev Snacks, Elite, Asian Ojin were taxed as unregistered branded food products at the rate of four per cent instead of the correct rate of 12.5%. This resulted in short realisation of tax of Rs.36.84 crore.
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>M/s.Dev Snacks (06-07 to 10-11)</u></p> <p>The assessment u/s 25(i) in respect of the above dealer is completed for the years 06-07 to 10-11 creating additional demands as follows:</p> <table border="1" data-bbox="503 424 978 600"> <thead> <tr> <th>Assessment year</th> <th>Tax due</th> <th>Interest due</th> </tr> </thead> <tbody> <tr> <td>2006-07</td> <td>6,55,933</td> <td>4,65,712</td> </tr> <tr> <td>2007-08</td> <td>9,35,226</td> <td>4,95,670</td> </tr> <tr> <td>2008-09</td> <td>9,30,140</td> <td>3,81,357</td> </tr> <tr> <td><del>2009-10</del></td> <td><del>12,23,673</del></td> <td><del>3,54,865</del></td> </tr> <tr> <td>2010-11</td> <td>15,18,901</td> <td>2,58,213</td> </tr> </tbody> </table> <p>The collection particulars will be furnished on receipt of the same from the concerned authority.</p> <p>Out of the demand created the assessee paid Rs.2,25,000/- as follows:-</p> <table border="1" data-bbox="549 801 943 1185"> <thead> <tr> <th>Sl.No</th> <th>Amount</th> <th>Ch.No</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>25000</td> <td>241/27-12-12</td> </tr> <tr> <td>2</td> <td>25000</td> <td>458/28-01-13</td> </tr> <tr> <td>3</td> <td>25000</td> <td>461/28-02-13</td> </tr> <tr> <td>4</td> <td>25000</td> <td>1057/27-03-13</td> </tr> <tr> <td>5</td> <td>25000</td> <td>127/30-04-13</td> </tr> <tr> <td>6</td> <td>25000</td> <td>371/30-05-13</td> </tr> <tr> <td>7</td> <td>25000</td> <td>125/28-06-13</td> </tr> <tr> <td>8</td> <td>25000</td> <td>283/31-07-13</td> </tr> <tr> <td>9</td> <td>25000</td> <td>266/31-08-13</td> </tr> <tr> <td><b>Total</b></td> <td><b>2,25,000</b></td> <td></td> </tr> </tbody> </table>	Assessment year	Tax due	Interest due	2006-07	6,55,933	4,65,712	2007-08	9,35,226	4,95,670	2008-09	9,30,140	3,81,357	<del>2009-10</del>	<del>12,23,673</del>	<del>3,54,865</del>	2010-11	15,18,901	2,58,213	Sl.No	Amount	Ch.No	1	25000	241/27-12-12	2	25000	458/28-01-13	3	25000	461/28-02-13	4	25000	1057/27-03-13	5	25000	127/30-04-13	6	25000	371/30-05-13	7	25000	125/28-06-13	8	25000	283/31-07-13	9	25000	266/31-08-13	<b>Total</b>	<b>2,25,000</b>	
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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	Result of cross verification of registered dealers.
	(c)	Paragraph No.	2.11.12.4 (a) (7)
	(d)	Report No. and Year	C&AG Report ended 31.03.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	03.08.2012
	(b)	Date of Department's Reply	03.11.2012
III		Gist of Paragraph/Review	On verification of assessment records of ten dealers and it was found that nine bakery products which were sold under different trademarks like Fresh, Best, Dev Snacks, Elite, Asian Ojin were taxed as unregistered branded food products at the rate of four per cent instead of the correct rate of 12.5%. This resulted in short realisation of tax of ` 36.84 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	
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	Details furnished in VI (a)

VI

## Remedial action Taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>Asian Home Products Ltd. (06-07 &amp; 07-08)</u>  <u>CTO, 3<sup>rd</sup> Clc, Tvppm</u></p> <p>M/s. Asian home products (P) Ltd is an assessee having TIN.32010806755. They are using their company name "ASIAN" on their products from the date of starting of the company. They had applied to the Registrar of Trade Marks, Chennai in October 1997 itself (Ref. No. 771060) for registering this name as their Trade Mark under the Trade Marks Act. Registrar of Trade Marks Chennai refused registration of the name ASIAN on the ground of non-registerability under section 9 of the Trade Marks Act, 1999.</p> <p>Regarding Trade Mark No. 1346627 dt. March 23, 2005 registered by the Trade Marks Authority in their name, they have never used this Marks on any of their product. Also this Trade Mark No.1346627 was sold and assigned to one Seema pallai as they never used or intended to use this Trade Mark. Asian Home products(P)Ltd does not own, cannot use, and do not have any control over the Trade Mark No. 1346627 nor have any right to use this Trade Mark. The Assignment Deed was filed with Registrar of Trade Mark by the present owner and got recorded at the Trade Mark Registry, Chennai.</p> <p>It may be noted that Asian home product (P)Ltd is not owning or in possession of any registered Trade Mark under the Trade Mark Act and they have never used any registered Trade Mark for any of their products.</p> <p>It may also be noted that entry 7 of the 3<sup>rd</sup> schedule to the KVAT Acts 2003 is very specific which clearly says that "Bakery products, Sweets, Confectionery and other food products other than those sold under Brand Name registered under the Trade Marks Act 1999" which means that those products sold under Brand name registered under the Trade Marks Act 1999 alone are taxable @ 12.5 %. Here, in the assessee's case, they are not selling or never sold any of their products using Brand name registered under Trade Marks Act 1999 as is evident from the containers or packing materials used for packing their products.</p> <p>In order to attract tax @ 12.5 % the goods should</p>
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		<p>be sold using Brand name registered under the Trade Marks Act 1999. <u>Since the assessee is not using any Trade Mark registered under the Trade Marks Act to sell their products it is liable to pay tax @ 4 % only.</u></p> <p>In this case there is, therefore, no irregularity and short levy 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	Result of cross verification of registered dealers.
	(c)	Paragraph No.	2.11.12.4 (a) (8)
	(d)	Report No. and Year	C&AG Report ended 31.03.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	03.08.2012
	(b)	Date of Department's Reply	03.11.2012
III		Gist of Paragraph/Review	On verification of assessment records of ten dealers and it was found that nine bakery products which were sold under different trademarks like Fresh, Best, Dev Snacks, Elite, Asian Ojin were taxed as unregistered branded food products at the rate of four per cent instead of the correct rate of 12.5%. This resulted in short realisation of tax of ₹ 36.84 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	
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	Details furnished in VI (a)

(a) Improvement in system and procedures, including internal controls.	<b>Best Foods Ltd., AC., Spl. I, Ekm 08-09, 09-10, 10-11</b>		
	The final assessment in respect of M/s. Best Foods Ltd. with TIN No. 32071537934 for the years 08-09 to 10-11 has been completed by fixing sales turnover of bakery products which are sold under brand name at 12.5% and balance tax and interest due are under revenue recovery. The details as given below.		
		(Rupees)	
Taxable turnover proposed			47848680.00
Less turnover claimed under deemed export proved			7468610.00
Balance taxable turnover determined			40380070.00
Break up: Turnover taxable @4% on	13262680		53050720.00
Turnover taxable @ 12.5% on	27117390		33389673.75
Total			3920180.95
Cess @ 1%			39201.80
Total tax due			3959382.75
Less input tax paid	9421773		
Less Tax paid	396656		1339273.73
Balance payable			2620109.02
Rounded to			2620109.00
Interest due @ 40% up to July 2012			1048044.00
<b>2009-10</b>			
Total turnover conceded			Rs. 45667593.38
Add turnover conceded under other income			Rs. 77731.00
Total turnover proposed			Rs. 45745324.38
Taxable turnover proposed			Rs. 45745324.38
Less other income proved			Rs. 67423.00
Less exemption allowed			Rs. 7286293.00
Balance taxable turnover			Rs. 38391618.40
<b>Break up</b>			
TOT @ 12.5% on	Rs. 26641860.40		Rs. 3330232.50
TOT @ 4% on	Rs. 11749758.40		Rs. 469990.30
Total			Rs. 3800222.80
Cess @ 1%			Rs. 38002.00
Total			Rs. 3838225.00
Less			
IPT allowed		Rs. 1152000.00	

		Tax paid along the return Rs. 313984.00 Balance due Interest due @ 36% <b>2010-11</b> TOT proposed Less exempted allowed Balance taxable turnover Rounded to Break up Turnover taxable @4%      Rs.17427730 "                                  @12.5%      Rs.5383590  Total Cess @1%  Total tax due Rounded to Less input tax paid      Rs.1250000 Less tax paid along return Rs.570892  Balance tax due Interest due at 24%	<del>Rs. 1465984.00</del> Rs. 2372241.00 Rs. 854007.00  Rs.59108411.00 <u>Rs. 629705.29</u> Rs.52811315.71 Rs.52811320.00  Rs.697109.20 Rs.4422948.75  Rs.5120057.95 Rs. 51200.58  Rs.5171258.53 Rs.5171259.00  Rs.1250000 Rs.1820892.00  Rs.3350367.00 Rs. 804088.00
(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	Result of cross verification of registered dealers.
	(c)	Paragraph No.	2.11.12.4 (a) (9)
	(d)	Report No. and Year	C&AG Report ended 31.03.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	03.08.2012
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	On verification of assessment records of ten dealers and it was found that nine bakery products which were sold under different trademarks like Fresh, Best, Dev Snacks, Elite, Asian Ojin were taxed as unregistered branded food products at the rate of four per cent instead of the correct rate of 12.5%. This resulted in short realisation of tax of 36.84 crore.
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	Details furnished in VI (a)



VI

## Remedial action Taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>Ojin Bakes, Nadakkavu, Calicut TIN.32110757324</u> <u>CTO, 2<sup>nd</sup> Circle, Kozhikode</u></p> <p>M/s. Ojin Bakes, Nadakkavu, Calicut is not at all a trade mark holder registered under the trade mark act, 1999. But their sister concern M/s.Ojin Bakes (P) Ltd is a registered trade mark holder under the above Act. They are registered dealer on the rolls of Assistant Commissioner, Special Circle-1, Kozhikode.</p> <p>Enquiry conducted at the business place of M/s.Ojin Bakes, Nadakkavu, Calicut revealed that they are selling Tea cakes and plum cakes in the wrapper marked 'Ojin' which manufactured by themselves at the business premises of the dealer. They have not made any purchase from Ojin Food Pvt. Ltd except raw materials. Almost all bakery products are manufactured by them at their business premises.</p> <p>On verification of books of accounts of the dealer for the year 2008-09 to 2010-11 it is noticed that the turnover of cake shown as per the books of accounts is inclusive of all types of cakes such as Cup cakes, Cream cake, New year cakes, Christmas cake, Tea cake, Plum cake etc.. Major portion of the cakes are sold by them without wrapper. Hence the 50% of the turnover of cake conceded in the books of accounts is treated as sales turnover of branded cakes. The total turnover of the cakes conceded as per the books of accounts is as shown below:</p> <table border="1" data-bbox="507 924 917 1016"> <thead> <tr> <th>Year</th> <th>Turnover</th> </tr> </thead> <tbody> <tr> <td>2008-09</td> <td>96198.00</td> </tr> <tr> <td>2009-10</td> <td>256270.00</td> </tr> <tr> <td>2010-11</td> <td>531678.00</td> </tr> </tbody> </table> <p>In the audit enquiry the entire turnover reported by the dealer under 4% was treated as branded items and assessed differential rate of 8.5% which is not correct. Turnover of 12.5% were separately shown by the dealer as per the return filed.</p> <p>However 50% of the above turnover is considered as the turnover of cakes which was sold with wrapper marked 'Ojin'. This will be assessed at differential rate of 8.5%.</p>	Year	Turnover	2008-09	96198.00	2009-10	256270.00	2010-11	531678.00
Year	Turnover									
2008-09	96198.00									
2009-10	256270.00									
2010-11	531678.00									
(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	Result of cross verification of registered dealers.
	(c)	Paragraph No.	2.11.12.4 (a) (10)
	(d)	Report No. and Year	C&AG Report ended 31.03.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	03.08.2012
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	On verification of assessment records of ten dealers and it was found that nine bakery products which were sold under different trademarks like Fresh, Best, Dev Snacks, Elite, Asian Ojin were taxed as unregistered branded food products at the rate of four per cent instead of the correct rate of 12.5%. This resulted in short realisation of tax of ` 36.84 crore.
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	Details furnished in VI (a)

## VI Remedial action Taken

(a)	Improvement in system and procedures, including internal controls.	<p><u>Ojin Bakes &amp; Restaurant, Meenchanda TIN.32110719715</u></p> <p>M/s. Ojin Bakes &amp; Restaurant, Meenchanda is not at all a trade mark holder registered under the trade mark act 1999. But their sister concern M/s.Ojin Bakes (P) Ltd. is a registered trade mark holder under the above Act. They are registered dealer on the rolls of Assistant Commissioner, Special Circle-1, Kozhikode.</p> <p>Enquiry conducted at the business place of M/s.Ojin Bakes &amp; Restaurant, Meenchanda, Calicut revealed that they are selling Tea cakes and plum cakes in the wrapper marked 'Ojin' which manufactured by themselves at the business premises of the dealer. They have not made any purchase from Ojin Food Pvt. Ltd except raw materials. Almost all bakery products are manufactured by them at their business premises.</p> <p>The books of accounts of the dealer for the year 2009-10 &amp; 2010-11 has been verified. The turnover of cake shown as per the books of accounts is inclusive of all types of cakes such as Cup cakes, Cream cake, New year cakes, Christmas cake, Tea cake, Plum cake etc. Major portion of the cakes are sold by them without wrapper. Hence the 50% of the turnover of cake conceded in the books of accounts is treated as sales turnover of branded cakes. The total turnover of the cakes conceded as per the books of accounts is as shown below:</p> <table border="1" data-bbox="456 874 863 945"> <thead> <tr> <th>Year</th> <th>Turnover</th> </tr> </thead> <tbody> <tr> <td>2009-10</td> <td>347522.00</td> </tr> <tr> <td>2010-11</td> <td>761077.00</td> </tr> </tbody> </table> <p>In the audit enquiry the entire turnover reported by the dealer under 4% was treated as branded items and assessed differential rate of 8.5% which is not correct. Turnover of 12.5% were separately shown by the dealer as per the return filed.</p> <p>However 50% of the above turnover is considered as the turnover of cakes which was sold with wrapper marked 'Ojin'. This will be assessed at differential rate of 8.5%.</p>	Year	Turnover	2009-10	347522.00	2010-11	761077.00
Year	Turnover							
2009-10	347522.00							
2010-11	761077.00							
(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	Cross verification of data obtained from Customs Department in respect of Cashew dealers
	c	Paragraph No	2.11.12.4(b)
	d	Report No. and year	C & AG Report for the year ended 31/03/2012.
II	a	Date of receipt of the Draft Para / Review in the Department	28/07/2012
	b	Date of Department's reply	
III		Gist of Paragraph / Review	The details of import purchases of Raw Cashew Nuts (RCN) through Cochin, Mangalore and Tuticorin ports were collected from the customs department and verified with reference to the returns filed by the dealers registered under the KVAT Act 2003. It was found that 23 dealers had imported RCIV valued Rs. 2104.13 crore during the period from 2008-2009 to 2010-11. The purchase turnover disclosed by the assessee in their VAT returns filed with the CTD was Rs. 1078.99 crore only, resulting in suppression of import purchase turnover of RCN valued at Rs. 1025.14 crore. This resulted in short levy of tax, interest and penalty to Rs. 136.11 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 supports	
V	(a)	Does the Department agree with the Audit conclusions	No
	(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

<p>a Improvement in system and procedures including internal controls</p>	<p>Assessing Authorities have verified the data related to import of raw cashew nuts through Cochin and Tuticorin Port as received from the SRA review party along with the Books of Accounts of the 20 dealers of Assistant Commissioner, Special Circle, Kollam for the years from 2006-07 to 2010-11.</p> <p>On detailed verification of each and every aspects related to import purchase with the purchase register, Trading profit &amp; Loss Account, Ledger folio of imports, Bill of Entry copies, Bank Statement etc reveals the following common facts.</p> <ol style="list-style-type: none"> <li>1. Dealers have branch business places in Tamil Nadu, Karnataka, Andhrapradesh etc and the goods taken delivery at the branches are not seen reckoned by the audit wing while computing the turnover of imported Raw cashew nuts</li> <li>2. Quantitative details of the raw cashew nut imported at Tuticorin and Kochi is not seen mentioned or reckoned in the draft para</li> <li>3. The assessable value conceded in the customs data consists of CIF value ( Cost Insurance Freight ) where as the import value accounted by the dealer is excluding insurance and freight. The custom authorities estimate the value by adding insurance charges to the CIF value of goods irrespective of the fact that the actual value is on FOB or C &amp; F. Customs authorities make further addition of 1% towards landing charges which does not form part of actual value.</li> <li>4. The customs department considers a common exchange rate for a month as per instructions from RBI where as bank considers the composite exchange rate as prevailing on the date of clearance of import voucher.</li> </ol>
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		<p>Considering all the facts stated above it is evidently clear that there is no suppression of import purchase of raw cashew nuts as the quantitative details of import which agree with the out turn of Kerala sales etc.</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	Cross verification of data obtained from Customs Department in imported materials used by works contractors
	c	Paragraph No	2.11.12.4 (d) (iv)
	d	Report No. and year	C & AG Report for the year ended 2012.
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. Tamara Real Estate Holding and Developments (P) Ltd. ( 2009-10 ) 32011378569  During cross verification of data obtained from the Custom House at Cochin Port it was found that in respect of the assessee failed to disclose import purchases of tiles, marbles etc. resulting in short levy of tax amounting to Ra. 44.81 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 supports	

Remedial Action taken.

a	Improvement in system and procedures including internal controls.	<p><b>M/s. Tamara Real Estate Holding and Development (P) Ltd.</b></p> <p>The dealers are developing Resorts / Hotels in the states of Karnataka, Tamil Nadu and Kerala. They had imported goods (single pieces / from Torino, Italy) to Thiruvananthapuram against Bill of entry No. 255255 dated 06/10/2009 and same was accounted in the books of accounts.</p> <p>The goods imported was for their own use for projects situated at different locations and it was absolutely not for sale. The imported goods was not disclosed in VAT monthly annual return since it was capital item. They had stopped the project in Kerala due to unavoidable circumstances.</p> <p>They had transferred / shifted the imported goods from Kerala to Bangalore vide Delivery Notes. They are registered dealers in the state of Kerala and Karnataka also. It is a fact that they have not sold or consumed any of the above imported goods in the State of Kerala but transferred to their own projects in outside the state for own use. Since no sale was involved in the State of Keala the dealer was not liable to pay any tax on the imported goods under the KVAT Act 2003. Hence there exists no short levy as pointed out in the audit, para may kindly be waived.</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	Goods meant for own use - Form 16
	(c)	Paragraph No.	2.11.12.5
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Increase in transportation of goods for own use by registered as well as unregistered dealers leading to evasion of tax under cover of Form-16.
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>The Department has issued directions containing actions to be proceeded for subsequent verification of consignments supported with form 16 in Ir.No.C2-8472/12/CT dtd.25.2.12. Accordingly, the check post authorities are instructed to maintain a separate register at the check post for the transport of goods under cover of form No.16 and documents shall be forwarded to the Int. Officer (IB) for further verification.</p> <p>The IB wing of the department is entrusted with the duty of follow up action in this regards. If any irregularities are found after verification, a penalty at 3 times of the tax effect shall be recovered from the consignee as per amendment made by the Finance Act 2009, by which a new section (sn.70E) was added. The DC(I)s are strictly instructed to supervise the conducting of investigations and review the progress of action.</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
I	(b)	Subject/Title of the Review	Evasion due to neglected areas in KVAITS
	(c)	Paragraph No.	2.11.12.6(a)
	(d)	Report No. & Year	C & AG report for the year ended March 2012
II	(a)	1. Date of receipt of the Draft Para/Review in the Department.	
	(b)	Date of Department's Reply	
III		Gist of the Paragraph/Review	KSRTC, Special Circle, Thiruvananthapuram. In the Special Circle, Thiruvananthapuram, an assessee, the KSRTC received Rs. 6.15 Cr during the period 2006-07 to 2010-11 as income from advertisement on bus bodies which come under transfer of right to use did not assess the same to tax. This resulted in non-levy of tax including interest of Rs. 0.34 Cr.
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	<p>KSRTC, Special Circle, Thiruvananthapuram. (2006-07 to 2010-11)</p> <p>Based on audit observation assessment was completed for 2006-07 to 2010-11 vide order No. 32018179714 dated 31.01.2015 creating the following demand.</p> <table border="1" data-bbox="524 354 922 577"> <thead> <tr> <th>Year</th> <th>Tax</th> <th>Cess</th> <th>Interest</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>2006-07</td> <td>632801</td> <td>-</td> <td>594833</td> <td>1227634</td> </tr> <tr> <td>2007-08</td> <td>271199</td> <td>-</td> <td>222383</td> <td>493582</td> </tr> <tr> <td>2008-09</td> <td>1150133</td> <td>11501</td> <td>813144</td> <td>1974778</td> </tr> <tr> <td>2009-10</td> <td>1360369</td> <td>13604</td> <td>796904</td> <td>2170877</td> </tr> <tr> <td>2010-11</td> <td>404040</td> <td>4040</td> <td>187717</td> <td>595797</td> </tr> <tr> <td><b>Total</b></td> <td><b>3818542</b></td> <td><b>29145</b></td> <td><b>2614981</b></td> <td><b>6462668</b></td> </tr> </tbody> </table>	Year	Tax	Cess	Interest	Total	2006-07	632801	-	594833	1227634	2007-08	271199	-	222383	493582	2008-09	1150133	11501	813144	1974778	2009-10	1360369	13604	796904	2170877	2010-11	404040	4040	187717	595797	<b>Total</b>	<b>3818542</b>	<b>29145</b>	<b>2614981</b>	<b>6462668</b>
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	(d) Report No. & Year	C & AG report for the year ended March 2012.												
II	(a) Date of receipt of the Draft Para/Review in the Department													
	(b) Date of Department's Reply													
III	Gist of the Paragraph/Review	<p>As per entry 68 of the Third Schedule of the Act, intangible goods like Copyright, Patent, REP licence etc. are taxable at the rate of 4%. In two offices right to use in respect of goodwill and sale of intangible assets like patent, copy right etc. were not assessed resulting in short levy of tax including penalty and interest amounting to Rs. 2.17 Cr. It is recommended that the Govt. may consider notifying the transactions that come under the scope of intangible and in corporeal goods eligible to tax as featured in the schedule attached to the Maharashtra VAT Act.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th></th> <th>S.L. (lakh)</th> </tr> </thead> <tbody> <tr> <td>(1) M/s. Feroke Boards</td> <td>2010-11</td> <td>173.06</td> </tr> <tr> <td>(2) M/s. Aspin Wall &amp; Company</td> <td>2007-08</td> <td>44.06</td> </tr> <tr> <td colspan="2" style="text-align: center;">Total</td> <td>217.46</td> </tr> </tbody> </table>			S.L. (lakh)	(1) M/s. Feroke Boards	2010-11	173.06	(2) M/s. Aspin Wall & Company	2007-08	44.06	Total		217.46
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**REMEDIAL ACTION TAKEN**

(a)	Improvement in system and procedures, including internal control	<p>(1) <u>M/s. Feroke Board Ltd., Kerala 2010-11</u></p> <p>Short levy 173.06 lakhs (Special Circle, Malappuram)</p> <p>M/s. Feroke Board Ltd., Kerala is an assessee on the rolls of this office bearing TIN 32100448522. During the year 2010-11 the assessee has received an amount of Rs. 15,72,16,000 from M/s. Mozonite Doors (P) Ltd., towards transfer of right to use, Goodwill, Trademark, Patent etc. But the assessee conceded Rs. 1,99,20,469/- only in the returns. The balance escaped turnover amounted to Rs. 13,72,95,531/- has been assessed to tax as per this office proceedings vide order No. 32100448522/10-11 dated 31.07.2014 with an additional demand of Rs. 1,13,72,649/-. The assessee remitted Rs. 34,14,795/- as 30% of the additional demand as per condition of the stay order of Deputy Commissioner (A), Kottayam vide Order No. KVATA 2640/2014 dated 22.09.2014, and furnished security for the balance amount. Appeal is still pending.</p> <p>(2) <u>M/s. Aspinwall &amp; Company 2007-08</u></p> <p>M/s. Aspinwall and Company is an assessee borne on the rolls of this office holding TIN 32150303007. The self assessment in respect of the assessee for the year 2007-08 was reopened U/s. 25(1) of KVAT Act as per this office proceeding dated 11.02.2013 assessing the escaped turnover of Rs. 750,00,00.00 @ 4% with Tax effect of Rs. 31,09,601.00 and interest due there on is for Rs. 18,34,665.00. The aforesaid amount of Rs. 7,50,00,000.00 was received by the assessee from DLF Aspin wall Hotels (P) Ltd. towards consideration for non-exclusive right to use the company's name "Aspin wall" along with "Good will" for a period of 99 years. The assessee had not disclosed the amount in the return or paid tax. As "Good will" is intangible goods under entry 68(4) - others of third schedule to the KVAT Act it is taxable at 4%.</p> <p>Since the assessee failed to remit the amount, Revenue Recovery proceedings have been initiated against them. The assessee preferred</p>
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		<p>appeal and stay petition against the order before Deputy Commissioner (A), Ernakulam. The Deputy Commissioner (A), Ernakulam in turn has granted conditional stay as per Order No. KVATA No. 1004/2013/15.03.2013 directing to remit 25% of the tax demanded and furnish security as Bank Guarantee for the balance amount. Accordingly the assessee paid Rs. 12,47,727/- vide chalan No. 940607 dated 20.06.2013. The appeal is still pending for 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	
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GOVERNMENT OF KERALA

AGRICULTURE (AHG) DEPARTMENT

Statement of Action Taken on the Recommendations Contained in the Para No.2.11.12.7 of the Report of the C&AG on Revenue Receipts for the year ended 31/3/2012.

Sl. No	Para No	Recommendations	Action Taken by Government
1	2.11.12.7	<p><u>Failure to detect Evasion</u></p> <p>(i) Absence of uniformity in valuation of Day old chicks (DOC)</p> <p>(ii) --</p>	<p>The price of the Day Old Chicks (DOC) is highly volatile. Every week the price is changing on the basis of the decision taken by big private hatcheries in Tamil Nadu. KEPCO is only producing DOC below 2% of the chicks needed to the farmers in Kerala. Only a small percentage of chicks are marketed by KEPCO because they have their own Integration Farms, wherein they are placing the chicks. Since KEPCO's market share (sales turnover) of DOC is too little, it may not be fair to fix the market rate of DOC based on KEPCO's rate.</p> <p>At present, no broiler or Giriraja chicks are being reared or hatched in the poultry farms under the Animal Husbandry Department. In these farms, the backyard poultry breeds like Gramapriya, Gramalekshmi and Athulya are hatched and distributed to authorised egger nurseries as day old chicks. During 2013 the rate of day old egger chicks was Rs.18/- per chick. The prevailing rate is Rs.20/- per chick vide Order No. H1/12896/2014/Farms dated 30/06/2016 of Director of Animal Husbandry (Copy enclosed).</p>

	<p>(iii) Sale of Chicken through Kunjipally check post to Mahe</p>	<p>The Director of Animal Husbandry Department vide his letter No.A1/15856/13 dated 25/01/2014 (copy enclosed) requested the Commissioner of Commercial Taxes Department to modify Order No.C2-15221/09/CT dated 23/08/2013 (copy enclosed) as "the floor rate of day old broiler chicks" instead of "the floor rate of day old chicks". Floor rate of Commercial Taxes Department is not applicable to Animal Husbandry Department.</p> <p>The matter is connected with Commercial Taxes Department.</p>
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**PROCEEDINGS OF THE DIRECTOR OF ANIMAL HUSBANDRY.****VIKAS BHAVAN, THIRUVANANTHAPURAM**

Animal Husbandry Department -Farms- Revision of the selling price of various farm commodities in Animal Husbandry Department-revised selling price fixed- orders issued.

Order No. H1/12896/2014/Farms

Dated: 30/6/2016

- Read: 1. Order No. H1/12896/14/farms Dated 03/05/2014 of Director of Animal Husbandry.  
 2. Request from the Farm Officers.  
 3. Officers meeting on 16/12/2015 at the Conference Hall , Directorate of Animal Husbandry.

**ORDER**

As per the request from the farm officers, a meeting was convened on 16/12/2015 at the Conference Hall, Directorate of Animal Husbandry for preparing a report for the revision of selling price of various farm commodities.

The matter was discussed in detail and in view of low price of the farm products existing in Departmental farms compared to the market price and considering the increase in the cost of feeding expenses, transportation charges, electricity charges and increased market price, it is decided to revise the selling price of various farm products , and thereby reducing the financial loss of the farms.

The new price structure of various farm products will come into effect from 01/08/2016.

**1. Livestock Farms Cattle/ Buffalo**

Sl.No.	Age Group	Present rate		Revised Rate	
		Male	Female	Male	Female
1	0-30 days	600.00	800.00	700.00	800.00
2	31-90days	700.00	900.00	800.00	1,000.00
3	Above 3to 5 months		2,000.00		2,500.00
4	Above 5 to 8 months		5,000.00		5,000.00
5	Above 8 to 12 months		8,000.00		8,000.00

6	Above 12 to 18 months	12,000.00	12,000.00
7	Above 18 to 24 months	20,000.00	20,000.00
Culling rate Rs. 50/- per Kg (Live weight)		Rs. 75/- per Kg (Live weight)	

**Sale price of Milk**

Sl No.	Item	Present rate (Rs./Lr)	Revised rate (Rs./Lr)
1	Cow milk	36/-	38/-
2	Buffalo milk	44/-	45/-

- The sale price of milk to permanent livestock farm employees is fixed as Rs. 36/- and the quantity is limited to 1 Lr/day.
- Packed Milk Rs. 42/Litre.

**Sale price of Cow dung**

Cow dung	Present (Rs.)	Revised (Rs.)
Wet	800/-MT	800/-MT
Dry	6500/-MT	7000/-MT

**Indigenous Cattle**

Sl.No	Age Group	Kasargod Dwarf		Vechoor	
		Male	Female	Male	Female
1	10-30 days	700/-	800/-	800/-	1000/-
2	31-90 days	800/-	1000/-	1000/-	1200/-
3	3-5 months	1500/-	2000/-	1800/-	2500/-
4	6-8 months	4000/-	5000/-	4500/-	8000/-
5	9-12 months	5000/-	6000/-	8000/-	12000/-
6	13-18 months	-	8000/-	-	15000/-
7	19-24 months	-	10000/-	-	25000/-
Culling rate Rs. 50/- per Kg(Live weight)					
Milk Rs. 38/Ltr.					

### 2. Goat Farms (Revised Selling Price)

Sl No.	Age Group	Body Weight	Present Price		Revised Price	
			Male	Female	Male	Female
1	61-90 days	7 Kg	1200/-	1200/-	1400/-	1400/-
2	Above 3-5 months	10 Kg		1700/-	-	1700/-
3	Above 5-6 months	15Kg		2500/-	-	2500/-
4	Above 6-9 months	20Kg		3000/-	-	3000/-
5	Above 9-12 months	30Kg & above		5000/-	-	5000/-

Selling price of culling aged, uneconomical Goats Rs. 250/- per Kg (Live Weight) Goat manure Rs. 1 /Kg.

### 3. Pig Farms

Existing rate as furnished below .

Age	Female		Male	2-way	
	Large Yorkshire/Landra ce (pure line)	White		Duroc pure line	Cross female
Up to 60 days	11,850/-		20,010/-	6,500/-	4,260/-
61 upto 90 days	13,570/-		22,430/-	7,200/-	4,720/-
91-120 days	14,490/-		23,920/-	8,300/-	5,290/-
121-150 days	15,640/-		25,880/-	9,200/-	6,100/-
151-180 days	17,020/-		28,180/-	10,600/-	7,020/-
181-210 days	18,400/-		30,480/-	12,000/-	7,940/-
211-240 days	19,900/-		32,890/-	13,400/-	8,970/-
241-320 days	16,560/-		24,730/-	11,500/-	8,500/-
321-1440 days	13,230/-		16,450/-	10,000/-	7,000/-
Culled	50/-Kg (Body weight)		50/Kg	50/Kg	50/Kg
Piglets upto 60 days for fattening	Rs. 250/- per Kg (Body weight)				

2-5 months	Rs. 175/- per Kg (Body weight)			
Above 5 months	Rs. 150/- per Kg(Body Weight)			
<b>Pig Manure 50 Ps/Kg</b>				

**IV- RABBIT:** Existing rate to be continued.

Sl.No	Age Group	Rate
1	0-7 days	5/-
2	8-30 days	25/-
3	31-45 days	50/-
4	46-90 days	150/-
5	91-120 days	175/-
6	121-150 days	200/-
7	151-180 days	250/-
8	Above 6-months	Male 300/- Female 300/-

**V - POULTRY FARMS**

Sl No.	Item	Age Group	Present Price Rs.	Revised price Rs.
I	Commercial layer	Day old male	8/-	8
		Day old female	18/-	20
		Day old (straight run)	15/-	16
		2-15 days	30/-	40/-
		16-30 days	55/-	65/-
		31-45 days	75/-	85/-
		46-60 days	90/-	100/-
		61-75 days	100/-	110/-
		76-90 days	110/-	120/-
		91-105 days	120/-	130/-

		106-120 days	130/-	140/-
		121-135 days	150/-	160/-
		Above 135 days	180/-	190/-
II	Culled birds		80/- Kg	80
	Male birds sexing error	Below months	6 100/-Kg	80
III	Hatching Egg	Layer	11/-	13/-
		Broiler	11/-	11
		Emu	100/-	100
		Turkey	25/-	30
		Duck-Ordinary	12/-	12
		Duck Vigova	25/-	25
		Quail	2/-	2.5/-
IV	Table Eggs	Layer	To be fixed by DAHO every week	
		Duck	6/-	6
		Quail	1/-	1.5/-
		Turkey	5/-	7
V	Under sized eggs (Pullet eggs)	Poultry (below 40 gm) Duck	70/- Kg 80/- Kg	80/- Kg 100/- Kg
VI	Incubated eggs	Poultry	20/-	20
		Duck	20/-	20
VII	Chipped Eggs	Poultry	1.50/-	2/-
		Duck	3/-	3
		Turkey	2/-	3
		Quail	0.50/-	0.50
VIII	Poultry manure		1.50/- Kg	1.5 /Kg
IX	Fodder slips		0.30/-	0.30
	Grass		2/- Kg	2/Kg



**VI - QUAILS**

Sl No.	Age Group	Present Rate(Rs.)	Revised Rate (Rs.)
1	2-21 hrs.	15/-	15/-
2	3 weeks - 5 weeks	15/-	20/-
3	Above 5 weeks	20/-	30/-
4	Culled birds	80/ Kg	80/-
5	Day old	5/-	7/-

**VII- TURKEY-existing rate to be continued.****VIII- DUCKS**

Sl No.	Age Group	Present rate(Rs.)	Revised Rate(Rs.)
1	0-48 hrs.	15/-	15/-
2	3-7 days	20/-	20
3	8-15 days	35/-	35
4	16-25 days	45/-	45/-
5	26-35 days	55/-	60/-
6	36-40 days	70/-	75/-
7	41-50 days	90/-	100/-
8	51-60 days	100/-	120/-
9	61-70 days	110/-	130/-
10	71-90 days	120/-	140/-
11	91 days-4 months/ (120 days)	140/-	150/-
12	Above 4 months	150/-	170/-
13	Culled egg type bird	80/-Kg	100/- Kg

**IX COMMERCIAL MEAT TYPE VIGOVA STRAIGHT RUN**

Sl No	Age Group	Present rate (Rs)	Revised Rate (Rs.)
1	0-48 hrs	40/-	40
2	3-7 days	50/-	50
3	8-15 days	60/-	60
4	16-25 days	100/-	80/-
5	26-35 days	150/-	120/-
6	36-45 days	150/-	150/-
7	46-60 days	230/-	230
8	61-70 days	250	250
9	Above 70 days	-	300/-

Culled bird meat type Rs.100/kg

Taxes should be calculated as per rules.

(Sd/-)

Director of Animal Husbandry

To:

All District Animal Husbandry Officers  
All Farm Officers  
Technical Officers at Directorate  
Stock File -H1

//Approved for Issue//

Junior Superintendent

നം. എ1/15856/13.

മൃഗസംരക്ഷണ വകുപ്പ് ഡയറക്ടറേറ്റ്,  
വികാസ് ഭവൻ, തിരുവനന്തപുരം

തീയതി : 25/1/2014

മൃഗസംരക്ഷണ വകുപ്പ് ഡയറക്ടർ.

കമ്മീഷ്ണർ  
വാണിജ്യ നികുതിവകുപ്പ്.

സർ,

വിഷയം :- മൃഗസംരക്ഷണ വകുപ്പ് - സി& എ.ജി റിപ്പോർട്ട് -  
റവന്യൂ റസീപ്റ്റ് - സംബന്ധിച്ച്.

- സ്വപന :-
- 1) 31/3/2012 ൽ അവസാനിക്കുന്ന സി.വി.എ.ജി റിപ്പോർട്ടിലെ റവന്യൂ റസീപ്റ്റ് - ഖണ്ഡിക 2.11,12.7.
  - 2) സർക്കാരിന്റെ 30/5/2013, 20/12/13 ലെ 14427/AHG 3/2013/ADനമ്പർ കത്തുകൾ
  - 3) വാണിജ്യ നികുതി വകുപ്പ് കമ്മീഷണറുടെ 23/8/13 ലെ സി2. 15221/09/CT നമ്പർ ഉത്തരവ്.

മേൽ സൂചനകളിലേക്ക് സന്തര ശ്രദ്ധ ക്ഷടിക്കുന്നു.

മൃഗസംരക്ഷണ വകുപ്പിന്റെ കോഴി വളർത്തൽ ഫാമുകളിൽ ഇറച്ചി കോഴികളെയോ, ഗിരിരാജ കോഴികളെയോ വളർത്തുകയോ അവയുടെ കോഴിക്കുഞ്ഞുങ്ങളെ ഉൽപ്പാദിപ്പിക്കുകയോ ചെയ്യുന്നില്ല. പ്രസ്തുത ഫാമുകളിൽ വീട്ടുവളപ്പിലെ മുട്ടകോഴി ഇനങ്ങളായ ഗ്രാമപ്രിയ, ഗ്രാമലക്ഷ്മി അത്യല്പ തുടങ്ങിയ ഇനങ്ങളുടെ ഒരു ദിവസം പ്രായമായ കുഞ്ഞുങ്ങളെയാണ് ഉൽപ്പാദിപ്പിച്ച് അംഗീകൃത എഗ്ഗർ നഴ്സറികൾ വഴി വളർത്തി സർക്കാർ പദ്ധതികൾക്കായി വിതരണം ചെയ്യുന്നത്. നിലവിൽ സർക്കാർ ഫാമുകളിൽ ഉൽപ്പാദിപ്പിക്കുന്ന ഒരു ദിവസം പ്രായമായ മുട്ടകോഴിക്കുഞ്ഞിന്റെ വില (പിട) രൂപ18/- ആണ്.

ആയതിനാൽ ഒരു ദിവസം പ്രായമായ കോഴിക്കുഞ്ഞുങ്ങളുടെ ഫ്ളോർറേറ്റ് രൂപ 35/- എന്നത് ഒരു ദിവസം പ്രായമായ ഇറച്ചി കോഴിക്കുഞ്ഞുങ്ങളുടെ ഫ്ളോർറേറ്റ് എന്ന് വാണിജ്യനികുതി വകുപ്പിന്റെ ഉത്തരവിൽ ഭേദഗതി വരുത്തുന്നത് ഉചിതമായിരിക്കും.

വിശ്വസ്തതയോടെ,

(ഒപ്പ്)

സീനിയർ ഫിനാൻസ് ഓഫീസർ  
ഡയറക്ടർക്കുവേണ്ടി

PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES,  
KERALA

Present: SHYAM JAGANNATHAN, IAS

Sub :- Revision of floor rate of live chicken - Orders issued-Reg.

Read:-1.Order No. C2-11808/11/CT dated. 29.07.11

2. Lr.No.P13-1545/11 dated 09.07.13 of Deputy  
Commissioner, Palakkad

The existing floor rate of live chicken was fixed at ₹ 70 per Kg as per order read 1<sup>st</sup> above.

The committee, constituted for the fixation of floor rate of live chicken, under the chairmanship of Deputy Commissioner, Palakkad held a meeting on 05.07.2013. Representatives from the trade also attended the meeting.

The committee considered the current market price of live chicken both in Tamilnadu and Kerala. It was a general opinion that there is loss of revenue to the state exchequer in the context that the floor rate remains unaltered even when there is remarkable hike in the market price. At present price of live chicken varies from ₹ 90 to ₹ 120 per Kg.

The committee submitted the report vide read as 2<sup>nd</sup> paper above and has recommended the fixation of floor rate of live chicken at ₹ 95 per kilogram, day old chicks at ₹ 35 per bird and day old giriraja at ₹ 45 per bird, in view of the prevailing market rates.

In the circumstances stated above, in order to protect the state revenue, it is decided to revise the floor rate of live chicken and day old chicks. Hence the following orders are issued.

ORDER NO.C2-15221/09/CT DATED 23.08.2013

In supersession of the order read as 1<sup>st</sup> paper above, for the purpose of Sec.8 (g) and Sec. 47(16) A of Kerala Value Added Tax Act, 2003,

- (i) the floor rate of 'live chicken' imported into the state is fixed as Ninety five rupees (₹ 95) per kilogram.
- (ii) with regard to day old chicks the floor rate shall be; rupees forty five (₹ 45) per bird plus freight charges in case of 'giriraja' chicks; and rupees thirty five (₹ 35) per bird plus freight charges, in case of others.

This order will take effect from 29<sup>th</sup> August 2013.

Sd/-  
COMMISSIONER

//By order//

  
Joint Commissioner (General)

To: All Concerned

**Action taken Notes on C& AG's Reports**

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Failure to detect evasion
	(c)	Paragraph No.	2.11.12.7(1) Absence of uniformity in valuation of day old chicks
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 department has not fixed a floor rate for Day Old Chicks which resulted in under valuation of Day Old Chicks and escape of turnover of Rs.30.42 crores and consequent loss of revenue of Rs.3.84 crores in 2010-11.
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	

## Remedial action taken

- (a) Improvement in system and procedures, including internal controls.

Floor rates are fixed based on the market conditions and considering the ultimate sale value to retail consumers so as to capture tax. If such goods are declared below the floor rate, then the floor rate is reckoned for calculation of advance tax.

There is a permanent mechanism in Commercial Taxes Department for recommendation of floor rate of live chicken and Day Old Chicks. The Committee consists of DC (Int.), Tvm, Ekam, DCs of Palakkad and Kasargod. After analyzing the market trends and discussions with trade, the committee recommends the floor rate. On the basis of the report, Commissioner of Commercial Taxes issue necessary orders to fixed the floor value. The floor rate fixed with the subject to periodic review. Copy of the recommendation of the committee for fixation of floor rate of live chicken and Day Old Chicks are enclosed herewith.

The fixation of floor value of Day Old Chicks was introduced w.e.f. 1.5.2012 by noticing that the movement of Day Old Chicks is increasing. These chicks are traded in unorganized manner to local farms and its consequent sales often escaped the tax net.

The floor rate fixed for Day Old Chicks is given below.

Period	Day old chicks (others)	Day old chicks (Giriraja)
1.5.12 to 28.8.13	Rs.25	Rs.35
29.8.13 to till date	Rs.35	Rs.45

Regarding the revenue loss worth Rs.3.84 crores, the audit observation is not sustainable by virtue of the decision of the Hon'ble Division Bench of Kerala High Court in KMP Timbers and Saw Mills vs. CTI and another [(2012)50 VST 195 (Ker)]. The Hon'ble Division Bench while upholding the validity of the statutory provision this is section 47(16A), held "Advance tax is only a provisional deposit towards tax and nothing in the Act requires the appellant or any party to pay tax except on actual sale price. The value fixed under the circular for payment of advance tax does not reflect the basis for actual liability. In fact, tax is payable only on actual sale price and the appellant is absolutely free to claim refund of advance tax paid if it is in excess over tax liability. If there is allegation of under invoicing, it is for the

		assessing officer to establish the same in adjudication proceedings.
(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	Failure to detect evasion
	(c)	Paragraph No.	2.11.12.7(2)
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 department has not fixed a floor rate for Day Old Chicks which resulted in under valuation of Day Old Chicks and escape of turnover of Rs.30.42 crores and consequent loss of revenue of Rs.14.87 crores in Special Cle, Palakkad in the case of an assessee from the year 2006-07 to 10-11.
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	



## Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The fixation of floor value of Day Old Chicks was introduced w.e.f. 1.5.2012 by noticing that the movement of Day Old Chicks is increasing. These chicks are traded in unorganized manner to local farms and its consequent sales often escaped the tax net.</p> <p>The floor rate fixed for Day Old Chicks is given below.</p> <table border="1" data-bbox="436 399 988 509"> <thead> <tr> <th>Period</th> <th>Day old chicks (others)</th> <th>Day old chicks (Giriraja)</th> </tr> </thead> <tbody> <tr> <td>1.5.12 to 28.8.13</td> <td>Rs.25</td> <td>Rs.35</td> </tr> <tr> <td>29.8.13 to till date</td> <td>Rs.35</td> <td>Rs.45</td> </tr> </tbody> </table> <p>Regarding the revenue loss worth Rs.14.87 crores in Special Cle, Palakkad in the case of a dealer (M/s.Santhi Poultry Farm Ltd, Pkd) from the 06-07 to 10-11, the audit observation is not sustainable by virtue of the decision of the Hon'ble Division Bench of Kerala High Court in KMP Timbers and Saw Mills vs CTI and another [(2012)50 VST 195 (Ker)]. The Hon'ble Division Bench while upholding the validity of the statutory provision this is section 47(16A), held "Advance tax is only a provisional deposit towards tax and nothing in the Act requires the appellant or any party to pay tax except on actual sale price."</p>	Period	Day old chicks (others)	Day old chicks (Giriraja)	1.5.12 to 28.8.13	Rs.25	Rs.35	29.8.13 to till date	Rs.35	Rs.45
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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	Failure to detect evasion
	(c)	Paragraph No.	2.11.12.7(3) Sale of chicken through Kunjupally checkpoint to Mahe
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	There is a general tendency among dealers in evasion prone commodities to evade tax through new methods. Identification of such attempts of tax avoidance is possible only through constant surveillance and intelligence operations and issue of necessary guidelines to curb such practices.
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>It is true that a considerable portion of live chicken transported to Mahe are being sold in Kozhikode and Kannur districts. It is reported that the entire goods consigned to Mahe from Tamil Nadu State are actually crossing the CTCP, Kunhipally and reach there. The recommendation of AG to shift the checkpost to Azhiyoor Chungam, the place where the check post was earlier functioning is not found feasible to curb tax evasion as there is a major road which starts from Kunhipally, passes to through Mahe and finally connect with Nadapuram and Kuttiyadi. Hence findings of the AG that Kunjupally checkpost is to be shifted to Azhiyoor Chungam, the place where the checkpost was functioning earlier is not feasible to curb the smuggling.</p> <p>Mahe is a small area surrounded by the Kerala State. At present there is around 40 bye routs through which goods like chicken, electrical goods, foreign liquor, ghee, sanitary equipments and tiles are smuggled into the state. Mahe being a thickly populated area, there is no place for the int. squad to hide out and catch the goods while smuggling. The only operation is to conduct surveillance through boarder areas and intercept the vehicles coming across.</p> <p>There has been severe obstruction from the side of smugglers as well as the local people who are very sensitive and aggressive. There was court directions from Hon'ble High Court on several occasions towards discouraging the transport of goods to Mahe through Kerala by registered dealers who got registration from Mahe. Now the smugglers are practicing the modus operandi of transporting live chicken in small quantities and even some times taking chicken after converting into meat. Intervention from the side of the public against detention of goods leads to police cases in so many times.</p> <p>Though there has been stiff obstruction from the side of smugglers joining hand with the local people the no. of chicken loads transported to Mahe area has come down as shown below.</p>
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			<table border="1"> <thead> <tr> <th><u>2008-09</u></th> <th><u>09-10</u></th> <th><u>10-11</u></th> <th><u>11-12</u></th> </tr> </thead> <tbody> <tr> <td>2410</td> <td>2109</td> <td>1901</td> <td>1787</td> </tr> </tbody> </table> <p>So also collection from live chicken from the Int. side (intelligence squads of Kozhikkode, Kannur and Malhe) has increased. The year wise details of increase in collection from live chicken is given below (Rs. in lakhs).</p> <table border="1"> <thead> <tr> <th><u>2008-09</u></th> <th><u>09-10</u></th> <th><u>10-11</u></th> <th><u>11-12</u></th> </tr> </thead> <tbody> <tr> <td>53.68</td> <td>69.62</td> <td>62.78</td> <td>59.56</td> </tr> </tbody> </table> <p>The DC(I), Kozhikkode has been directed to arrange for special drive during festival seasons and to intensify the routine surveillance operations by utilizing the intelligence squads of other districts also.</p>	<u>2008-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	2410	2109	1901	1787	<u>2008-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	53.68	69.62	62.78	59.56
<u>2008-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>																
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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	--																
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**Action taken Notes on C& AG's Reports**

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Encouragement of evasion through regularization of bogus C/F forms
	(c)	Paragraph No.	2.11.12.8
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 Govt. has stated that the Int.wing has been strengthened to effectively to prevent the evasion activities. The department may give most priority to honest trade practices by ensuring timely and strict action against violation of the Act and initiate measures to strengthen control system and avoid tax evasion.
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>There is no permanent establishment to cross verify interstate movement as a matter of routine work. In the present scenario, teams are formed only for specific cases as reported by the Deputy Commissioner/Deputy Commissioners (Intelligence). The department has conducted interstate investigation on fake declaration forms during VAT period in specific areas like cashew, Plywood, Pepper and arecanut and this has yield considerable revenue to the department.</p> <p>The concessions announced as a part of package made in the budget speech by the Hon'ble Finance Minister was to waive penalty interest and all amount in excess of 4% which was due and leviable under CST Act as on one time measures. Accordingly, an amount of Ra.22 crores was collected during 2008-09. Regarding action to regularize the use of bogus C/F forms, the department have mandated online downloading of statutory forms and have developed a centralized system of issuing statutory forms through online. TINXSYS is the nation wide centralized data base of statutory form issued by different states which can be used to cross verify the forms issued and received by different states.</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	Inaction on bogus statutory forms detected by the Department
	(c)	Paragraph No.	2.11.12.9
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 department did not take any action to recover the tax of 5.30 crores recoverable in the cases involved in the verification of investigation wing regarding evasion by use of bogus C/F forms.
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>The department has conducted interstate investigation on fake declaration forms during VAT period in specific areas like cashew, Plywood, Pepper and arecanut and this has yield considerable revenue to the department.</p> <p>Regarding investigation conducted in the field of cashew, the results were handed over to the DC, Kollam for utilization of materials in the assessment and collected Rs.22 crores. In the field of plywood the reports of investigation conducted was handed over to the DCs concerned for utilization of materials while completing assessments. The financial result will be informed shortly.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy on 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	Delay in revision of floor rate in respect of plywood
	(c)	Paragraph No.	2.11.12.10
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 floor rate on plywood were revised only in November 2011 even though the matter was got to the notice of the department in April 2010. The delay in revision of floor rate has resulted in short levy of Rs.2.02 crores during 10-11.
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	

## Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The floor rate of plywood, marine plywood, flush door and block board were re-fixed as per the circular No.24/2011 dtd.15.11.2011. Subsequently, the trade representatives approach the Govt. and it was brought to the notice that the floor rate fixed by the department is too high when compared with the prevailing market rates. As per Govt. letter No.26246/B3/11/TD dtd.29.11.2011, it was directed to keep in abeyance the implementation of the circular. Accordingly, the department had issued direction to all authorities concerned to keep the implementation of the said circular in abeyance until further orders.</p> <p>In the circumstances, considering further report of the committee and in super session of the above order, the floor rates were re-fixed as per circular No.16/2012 dtd.8.5.12 takes effective from 11.6.2012.</p> <p>It had come to the notice of the department that price of the commodity is showing an increasing trend in the market. The committee held its next meeting on 26.6.2013 and submitted its recommendations on 2.7.2013. Based on this, floor rates are again revised vide circular No.16/2013 dtd.21.8.2013 takes effective from 26.8.2013.</p> <p>Regarding the revenue loss worth Rs.2.02 crores during 2010-11, the audit observation is not sustainable by virtue of the decision of the Hon'ble Division Bench of Kerala High Court in KMP Timbers and Saw Mills vs.CTI and another [(2012)50 VST 195 (Ker)].</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	No co-ordination between the Intelligence wing and the assessment wing.
	(c)	Paragraph No.	2.11.12.11
	(d)	Report No. and Year	C& AG report ended 31.3.2012
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 found that the Govt. did not evolve the mechanism whereby strict action could be taken against dealers who indulged in fraudulent transaction
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>In this para, AG has pointed out two aspects, viz., lack of co-operation between intelligence wing and assessment wing and delay on the part of department in fixing floor rate. Regarding lack of co-operation between intelligence wing and assessment wing, there is specific direction from CCT during the review meeting of senior officers of the department that the intelligence officer, IAC(I) and DC(I) shall interact with their counter part on bilateral issues for augmentation of revenue and that the intelligence wing will also be held responsible for poor performance of assessment wing.</p> <p>With the introduction of KVAT the officers of the Int.wing can also access KVATIS information. They are also provided access to KVATIS through laptop and data card for live information of documents such as online downloading of delivery note, Form SF &amp; SFA, tax payment details, return details, annual statements such as closing stock inventory 13, 13A etc. For data integration with other agencies like IT department, Customs and Central Excise Department etc., the CTD is verifying the pan details of all dealers. Pan is a single data entity that can be used to identify the dealer particulars in these external system. Department is going ahead with signing of MOU with the Director General of Foreign Trade for the exchange of Electronic Bank reconciliation certificates so as to enable to examine the export and import details of all registered dealers.</p> <p>The formation of Economic Int. Wing w.e.f. 18.11.2013 is with a view to provide a check measure to the non utilization of secondary datas for scrutiny of returns filed by dealers.</p> <p>Regarding delay in fixing floor rates, separate committees are constituted to submit recommendations of floor rate on evasion prone commodities once in every three months, considering request from various quarters there may be some delay in refixing floor price of certain commodities.</p>
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(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of tender assessment, short levy or other dues	
(d)	Modification to the schemes and programmes including financing pattern	
(e)	Review of tender 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	Summary of Recommendations
	(c)	Paragraph No.	2.11.12.12
	(d)	Report No. and Year	C& AG report ended 31.3.2012
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<ol style="list-style-type: none"> <li>1) Restoration of audit assessment wing, CI wing, strengthening of Internal Audit Wing.</li> <li>2) 100% scrutiny of annual returns.</li> <li>3) Developing system for obtaining information from other department</li> <li>4) Stringent action against misuse of form No.16.</li> <li>5) Assessment of intangible and incorporeal goods as featured in the Maharashtra VAT Act.</li> <li>6) Timely fixing/refixing floor rate evasion prone commodities.</li> </ol>
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 recommendations of the AG is answered below: <ul style="list-style-type: none"> <li>a) The department has decided for restoration of Audit Assessment Wing to ensure compliance of provisions of Acts and Rules.</li> <li>b) The department has constituted Economic Int. Wing for obtaining information periodically from other departments and cross verify the same with KVATIS.</li> <li>c) The IB wing of the department has been entrusted with the work of investigation of goods transported under the cover of Form 15.</li> <li>d) The scope for levying tax on intangible and incorporeal goods will be examined and submit report to the Govt. depending on the introduction of GST Act.</li> <li>e) Action will be taken to fix/refix floor rates on evasion prone commodities periodically so as the avoid evasive nature of revenue by importers/exporters.</li> </ul>
	(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	--



## APPENDIX III

## APPENDIX FROM AUDIT REPORT

Short Levy Of Tax Due To Suppression Of Imports In Respect Of Cashew Dealers

(Para 2.11.12.4)

(₹ in lakh)

NAME OF CASHWEE	TIN	2008-09	2009-10	2008-09	2009-10	2010-11	Total
AM Cashews	32020228304	0.00	0.00	0.00	31.74	0.00	31.74
Alphonsa cashew industries	32020232512	0.00	21.76	0.00	71.89	0.00	93.64
Asiatic Export Enterprises	32020218764	76.95	167.73	171.60	331.17	0.00	747.46
Associated Cashew Industries	32020246225	1.69	198.06	47.55	183.32	0.00	430.62
M/s Anu Cashews	32020282282	79.47	49.68	126.91	220.54	10.44	487.03
Beena Cashew Company	32020298774	1.30	0.00	0.00	14.22	0.00	15.52
Classic Cashews	32020281325	0.00	0.00	68.05	83.16	0.00	151.21
Kerala Nut Food Company	32020213724	0.95	146.29	327.41	651.14	195.39	1321.17
Krishna Giri Cashews	32020225975	0.00	0.97	0.00	24.30	0.00	25.27
Lal Cashew Factory	32020258522	13.02	0.00	0.00	6.70	0.00	19.72
M Abdul Rahuman Kanju	32020215502	0.00	182.63	55.74	217.28	62.00	517.65
Peniel Cashew Factory	32020288705	0.00	0.00	25.28	130.81	0.00	156.08
Prakash Exports	32020222162	2.92	18.84	246.14	147.82	211.86	627.58
Prasanthi Cashew Company	32020270874	31.17	160.34	0.00	268.98	0.00	460.49
Quilon Export Enterprises	32020235234	0.84	122.32	229.28	314.92	190.63	858.19
Rajan Cashew Company	32020201394	0.00	0.00	0.00	36.99	0.00	36.99
Raj Kumar Impex Private Limited	32020260952	384.91	34.69	24.05	214.13	59.12	716.90
St Pauls Cashew Factory	32020281202	0.00	0.00	0.00	52.84	0.00	52.84
Starfood Corporation	32020279255	4.01	105.84	232.31	185.36	183.92	711.43
Sai Export Enterprises	32020219732	32.26	87.20	168.78	205.78	153.93	647.95
Sreelekshmi Cashew Corporation	32020208684	0.00	0.00	454.62	545.46	204.25	1,204.33
The Kerala State Cashew Development Corporation	32020261222	0.00	0.00	0.00	79.05	0.00	79.05
Vijayalakshmi Cashew Company	32020285386	0.00	164.38	1,622.06	1426.33	1,005.65	4,218.43
<b>Total</b>		<b>629.48</b>	<b>1,468.95</b>	<b>3,799.77</b>	<b>5,443.91</b>	<b>2,277.19</b>	<b>13,611.29</b>



**Kerala Legislature Secretariat  
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