



THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

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

SIXTY SECOND REPORT
(Presented on 11th December, 2014)

SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM

2014

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SIXTY SECOND REPORT

On

**Kerala Agro Machinery Corporation Limited based on the Report
of the Comptroller and Auditor General of India for the
year ended 31st March, 2009 (Commercial)**

78/2015.

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Shri P. S. Selvarajan, Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2014-16) having been authorised by the Committee to present the Report on their behalf, present this Sixty Second Report on Kerala Agro Machinery Corporation Limited based on the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2009 (Commercial) relating to the Government of Kerala.

The Report of the Comptroller and Auditor General of India for the year ended 31st March, 2009, was laid on the Table of the House on 25-3-2010. The consideration of the Audit Paragraph included in this Report and the examination of the departmental witness in connection thereto was made by the Committee on Public Undertakings constituted for the years 2011-2014.

This Report was considered and approved by the Committee at the meeting held on 19-11-2014.

The Committee place on record their appreciation of the assistance rendered to them by the Accountant General (Audit), Kerala in the examination of the Audit Paragraph included in this Report.

The Committee wish to express their thanks to the officials of the Agriculture Department of the Secretariat and Kerala Agro Machinery Corporation Limited for placing before them the materials and information they wanted in connection with the examination of the subject. They also wish to thank in particular the Secretaries to Government, Agriculture and Finance Department and the officials of Kerala Agro Machinery Corporation Limited who appeared for evidence and assisted the Committee by placing their considered views before the Committee.

Thiruvananthapuram,
11th December, 2014.

K. N. A. KHADER,
Chairman,
Committee on Public Undertakings.

REPORT

KERALA AGRO MACHINERY CORPORATION LIMITED

AUDIT PARAGRAPH

The Company, engaged in the manufacture and sale of agricultural implements was allowed (August 1991) to levy Central Sales Tax (Kerala) at a concessional rate of two per cent against the general rate of four per cent in respect of interstate sale of power tillers under Section 8(5) of the Central Sales Tax Act, 1956 (CST Act). In April 2005, Kerala Value Added Tax Act, 2003 (KVAT Act) was introduced by the Government of Kerala by repealing the CST Act and rescinding all the existing concessions given under Section 8(5) of the CST Act.

The Company, however, continued to collect CST on power tillers at concessional rate of 2 per cent during 2005-2008 against the general rate of four per cent during 2005-2007 and the three per cent during 2007-08 on the presumption that the concessions would be reinstated by the Government as the monthly sales tax returns continued to be accepted by the Sales Tax Department without any objection. Sales tax returns are finally accepted by the Sales Tax Department only at the time of completion of assessment at a later date. Amount of sales tax short collected on interstate sale of power tillers in the period 2005-08 aggregating to ₹ 203.71 crore was ₹ 3.28 crore.

According to Section 31(5) of KVAT Act, delayed payment of differential tax between the general and pre KVAT Act rates attracts simple interest at 12 per cent per annum. After a lapse of thirty months (April 2005–September 2007) the Company requested (October 2007) the Government to restore the concessional rate of two per cent on interstate sale of power tillers with retrospective effect from April 2005. The request was not accepted (April 2008) by the Government on the ground that all earlier notifications issued under section 8(5) of the CST Act, had been rescinded consequent upon notification of the KVAT Act.

Thus, the decision of the Company to continue to charge concessional rate of sales tax despite knowing that it was in violation of the provisions of KVAT Act resulted in a committed loss of ₹ 3.72 crore (including simple interest of ₹ 43.65 lakh) to the Company (during the three years 2005-08). As the concession in CST stood withdrawn from April 2005, the Company should have started collecting CST at normal rate with immediate effect. The Government, in interim reply, stated (May 2009) that the State Taxes Department had informed that individual exemptions are not contemplated in the VAT scenario and there is no provision in the KVAT Act

for reduction of CST with retrospective effect. Accordingly the Taxes Department rightly rejected the request of the Company. Although the Company has requested for waiver of the liability, the fact remains that these sales were already concluded and that the differential tax is irrecoverable from the customers. Thus, the Company will have to bear the liability for payment of sales tax short collected plus interest thereon of ₹ 3.72 crore.

[Audit Paragraph 4.4 contained in the Report of the Comptroller and Auditor General of India for the year ended on 31st March, 2009 (Commercial).]

Notes furnished by the Government is given in Appendix II.

1. The Committee wanted to know the details regarding the committed loss of ₹ 3.72 crore due to the imprudent decision of the Corporation to collect Central Sales Tax at concessional rate of 2% as per section 8(5) of Central Sales Tax Act even after the implementation of Kerala Value Added Tax Act, 2003 with effect from April 2005 by revoking the CST Act and abrogating all the existing concessions given under the Act. The witness informed that the short collection of Sales Tax in respect of interstate sale of power tillers had been regularised by Government vide G.O. (P) No. 109/2012/TD dated 19-6-2012 (SRO 460/12), restoring the concessional rate of 2% against the general rate of 4% for the period from 1-4-2005 to 31-5-2008. The Committee wanted more clarification on the audit para and directed Secretary, Agriculture Department to furnish a detailed report in this regard. The Committee expressed its dissatisfaction over the non attendance of the Managing Director of the Corporation in the meeting. The Committee opined that it was a grave lapse and total disregard to the Committee. The Committee therefore recommended that the Managing Director should submit explanation for his absence in the meeting.

Conclusions/Recommendations

2. The Committee is forced to suspect an illicit nexus between the officials of the Corporation and the buyers of power tillers which prompted the officials of the Corporation to levy Sales Tax at concessional rate despite knowing the fact that it was rescinded by KVAT Act. The Committee is much displeased to find that the supine attitude of the Corporation has resulted in the cash loss of ₹ 3.72 crore. The Committee directs to be furnished with a detailed report with a depiction on the loss suffered by the Corporation due to the imprudent decision of the Corporation to levy Sales Tax at concessional rate.

3. The Committee recommends that officials of the Corporation should take earnest efforts to keep abreast with the changes introduced in the tax structure from time to time, so that such lapses can be avoided in future.

Thiruvananthapuram,
11th December, 2014.

K. N. A. KHADER,
Chairman,
Committee on Public Undertakings.

APPENDIX I

SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

<i>Sl. No.</i>	<i>Para No.</i>	<i>Department concerned</i>	<i>Conclusions/Recommendations</i>
1	2	Agriculture	The Committee is forced to suspect an illicit nexus between the officials of the Corporation and the buyers of power tillers which prompted the officials of the Corporation to levy Sales Tax at concessional rate despite knowing the fact that it was rescinded by KVAT Act. The Committee is much displeased to find that the supine attitude of the Corporation has resulted in the cash loss of ₹ 3.72 crore. The Committee directs to be furnished with a detailed report with a depiction on the loss suffered by the Corporation due to the imprudent decision of the Corporation to levy Sales Tax at concessional rate.
2	3	„	The Committee recommends that officials of the Corporation should take earnest efforts to keep abreast with the changes introduced in the tax structure from time to time, so that such lapses can be avoided in future.

APPENDIX II

NOTES FURNISHED BY GOVERNMENT ON THE AUDIT PARAGRAPH

<i>Serial No.</i>	<i>Paragraph No.</i>	<i>Action Taken</i>
1	4.4 2008-09	As per G.O. (P) No. 109/2012/TD dated 19-6-2012 (SRO No. 460/12), Government have reduced the concessional rate of Central Sales Tax collected by Kerala Agro Machinery Corporation from 4% to 2% for the period from 1-4-2005 to 31-5-2008.