

No. C1/57597/05/CT

Office of the Commissioner
Commercial Taxes
Thiruvananthapuram.
Dated. 23-8-2006

CIRCULAR No.29/2006

Sub:-KVAT Act,2003 -Refund of input tax u/s 13 – further instructions –issued –reg.

Ref (i) Circular No 1/2006 dated 4/1/206 of Commissioner, Commercial Taxes. Tvpm

(ii) GO (Rt) No 5136/2006Fin Dated 18/7/2006

(iii) GO (Rt) No 5409/2006/Fin Dated 28/7/2006

Instructions were issued as per circular read as 1st paper above for refund of input tax in the case of export and inter state sales and stock transfer covered under Section 13 of the KVAT Act,2003.

Further as per proviso to sub section (6) of Section 11 of the said Act, the excess input tax carried forward in accordance with the said sub section and which remains unadjusted during the last return period of that year shall have to be refunded as if it were a refund accrued under section 13.

Government as per orders read as 2nd and 3rd papers above have prescribed the procedure for refund of VAT on export, interstate sales, interstate stock transfer and excess input tax credit remaining unadjusted at the end of a financial year.

The following further instructions are therefore issued in this regard for strict compliance.

The dealers who are entitled for refund of input tax in the case of interstate sale or interstate stock transfer in accordance with sub section (2) of section 13 of the said Act are required to file their application for refund of input tax in Form 21B with such documents as required in rule 46of the KVAT Rules to the assessing authority concerned within thirty days from the end of the month in which the dealer paid or adjusted the CST on the transaction in relation to which he claims the refund. The assessing authority can condone any delay in filing the application on valid grounds for reasons to be recorded in writing.

The dealers who are entitled for refund of input tax in the case of export in accordance with sub section (2) of section 13 of the said Act are required to file their application in Form 21C with such documents as required in Rule 47 of the KVAT Rules to the assessing authority concerned within one year from the date on which the goods have been exported. The assessing authority can condone any delay in filing the application on valid grounds for reasons to be recorded in writing.

The dealers who are entitled for refund of excess input tax credit remaining unadjusted at the end of the financial year in accordance with proviso to sub section (6) of section11 are required to file their application in Form 21CC to the assessing authority concerned before 30th June of every year. However the date of receipt of such application for the year 2005-06 has been extended upto 31st July 2006.

Only those dealers whose returns for all the return periods of the relevant financial year are accepted, either under section 21 or section 22 of the said Act are entitled for refund under the proviso to sub section (6) of section 11. Such dealers are entitled for refund of the excess input tax credit available as on 31st March of every year as reflected in the annual return less the tax, if any, paid under sub section (2) of section 6 along with the return for the return period ending on 31st March, the return of which is to be filed in the month of April. Dealers are entitled to carry forward the tax paid under sub section (2) of section 6 for the return period ending on 31st March to the next return period and claim special rebate under section 12 of the said Act. In the case of export or interstate sale or interstate stock transfer the assessing authority shall satisfy that the returns up to the relevant period are accepted either under section 21 or under section 22 of the said Act, as the case may be.

While issuing refund order the assessing authority shall satisfy that no demand is outstanding as on the date on account of any tax or other amount due from the dealer under the said Act or under the provisions of the KGST Act, 1963 or CST Act, 1956 or Kerala Tax on Entry of Goods into Local Areas Act, 1994. If any such demands are outstanding the assessing authority shall adjust such demands against the refund amount due to such dealer on proper notice. But refund shall neither be withheld nor delayed for the reasons that any proceedings under any of the above Acts are pending finalization against a dealer to whom refund under the said sections are due.

The assessing authorities shall verify the refund entitlements with reference to the documents furnished by the dealers and also conducting such enquiries as prescribed under sub rule (3) of rule 46 and sub rule (3) of rule 47 of KVAT Rules, 2005, dispose the refund claim within the time limit prescribed in this regard. Where a dealer is found eligible for refund the assessing authority shall issue separate proceedings/orders in each case indicating the name of Treasury to which the refund orders is to be presented. The refund orders have to be prepared in Form No 21K and presented to the concerned Treasury by the Drawing and Disbursing Officer of each office. The refund shall be effected under the head of account “0040-00-110-10 (Tax on sale, Trade etc – Trade Tax-Deduct-Refunds)”. The refunds shall be made only by way of crossed demand drafts drawn in favor of the dealers. The drawing and disbursing officer shall entrust the demand drafts so drawn to the concerned assessing authority on the date of receipt of the drafts from the treasury/bank as the case may be, and the assessing authorities shall disburse the same to the dealers concerned immediately on proper acknowledgement.

The time limit of three months from date of receipt prescribed for disposing off applications for refund as per Rule 46 and 47 of the KAVT Rules shall be strictly adhered to. Any interest payable on refunds as per Rules shall be recovered from the officer(s) responsible for the delay.

The instructions requiring pre-inspection by the Intelligence Wing in all cases are withdrawn. However, all assessing authorities shall continue to be responsible for all sanctions of VAT refund.

After effecting payment of refund, cases exceeding one lakh rupees shall be transferred to the Audit Assessment Wing for audit within seven days, *inter alia* with stock inventory, in the case of claims preferred in 21CC and Form 21J in other cases. In case the refund is made in accordance with sub rule(4) of Rule 47 after accepting bank guarantee, such files shall be forwarded to the Audit Assessment Wing after completing

the enquiries in this regard including realization of amount from the said guarantee, if necessary.

The Drawing and Disbursing Officer shall maintain a consolidated register showing the details of refund bills drawn by him and entrusted to the assessing authorities of his office. Officer-wise registers containing the following details shall be maintained by each Officer:

Sl No	<u>Date of Receipt of Application for Refund</u>	<u>Name of Dealer</u>	<u>TIN</u>	<u>Amount Claimed</u>	<u>Nature of Refund Claim (Form 21B/C/CC)</u>	<u>Date of Disposal</u>	<u>Nature of Disposal</u>	<u>Date of issue of Refund with number and date of demand draft</u>

The Controlling Officers shall verify the Registers at least once in a month during their visit to the offices and any discrepancy noticed shall be reported to the Commissioner immediately.

The Deputy Commissioners shall furnish a weekly report in the matter to the Commissionerate by e-mail.

The Deputy Commissioners shall communicate this Circular to all officers under their jurisdiction on proper acknowledgement.

Commissioner

To.

All Officers