

No.C4.49772/06

Office of the Commissioner
Commercial Taxes
Thiruvananthapuram
Dated.06..12.06

CIRCULAR. 49/06

Sub:- KVAT Act-2003- Sales Tax Deferment- applications-
Disposal- Reg:

As per section 32 of the KVAT Act small scale Industrial Units and Medium and large scale industrial units to whom exemption in respect of the tax payable under the KGST Act 1963 or Kerala Surcharge on Taxes Act, 1957 had been granted under the Industrial Policy of the State shall be eligible for deferment of tax collected under the provisions of KVAT Act, 2003, subject to conditions laid down in SRO 321/05. For availing such benefit the dealers has to file an option and it will not accrue automatically.

The Commercial Investigation Wing has brought to notice that certain assessing authorities are not complying with the procedure and conditions stipulated for granting sales tax deferment. It has also come to notice that in several cases the dealers stops paying VAT after filing an application claiming deferment that is kept without processing as required by SRO 321/05. This results in unjust enrichment to the dealer since the tax due to Government is retained by the dealer without any authority.

The conditions and procedure for granting Sales Tax Deferment were notified vide SRO 321/05. Units which are eligible for deferment are permitted to collect tax in accordance with the provisions of the KVAT Act, 2003. The deferment shall be for the unavailed portion of exemption in terms of quantum or period, as the case may be, out of sales tax exemption already sanctioned.

The amount so deferred shall not attract any interest till the period of deferment is over. Thereafter the amount so deferred shall be remitted to Government in sixty equal monthly installments starting from the month following the month in which the unit ceases to be eligible for such deferment with simple interest at 12 % per annum. If any installment or installments are defaulted, penal interest at the rate of one percent per month or part thereof shall be charged for the amount so defaulted. The assessing authority shall be responsible for the timely recovery if these amount.

Small scale industrial units claiming sales tax deferment shall file application before the Deputy Commissioner concerned through the assessing authority, and the Deputy Commissioner after verifying the same shall issue the order of deferment of tax for the eligible amount. In the case of medium and large scale industries, the deferment order shall be issued by Deputy Commissioner (General). The application for sales tax deferment should be accompanied by security bond in Form 6 prescribed under the KVAT Rules, 2005, with solvent sureties acceptable to the assessing authority for unavailed amount of exemption as on 31.03.05.

All the assessing authorities are therefore directed to comply with the directions contained in SRO 321/05 while processing the application for sales tax deferment. All dealers who had availed deferment without such valid orders shall be directed to remit the KVAT collected along with penal interest.

All the Deputy Commissioners are directed to ensure that the above instructions are strictly followed while processing the application for sales tax deferment.

Sd/-
Commissioner.