

CIRCULAR. No. 24/08

Sub:- KGST Act, 1963- Section 17D –Fast track method of completion of
KGST assessments- instructions issued-reg.

In the Finance Bill for the year 2008, it is proposed to incorporate a new provision in clause (e) of sub- section 2 of section 17 D of the Act. The newly introduced provision would read as follows;

(1)In cases where the returns are not acceptable, the following criteria may be adopted for determining their tax liability namely

(i) In case where the dealer had compounded the offence under section 47, or penalty under section 45A or 29A has been levied, the assessment may be completed on an addition proportionate to the period of suppression with reference to the quantum of suppression detected, limiting the tax effect on such addition to a maximum of three times of the compounding fee paid or tax effect of suppression detected, whichever is higher, and in case where a pattern of suppression has not been established, to an amount equal to the suppression detected.

(ii) In case where tax evaded cannot be quantified, the assessment may be completed on an addition equal to 5% of the taxable turnover conceded by the dealer as per his returns or accounts, subject to tax effect of a minimum five thousand rupees and a maximum of one lakh rupees.

(iii) In case where statutory forms and / declarations in support of claim of concessional rate of tax or exemption have not been filed or are partially filed, or where the forms have been misused, the assessment may be completed by disallowing such claims to the extent of the defect in such forms, assessing it under this Act.

(iv) In case of contracts where option for compounding under the provisions contained in section 7 of this Act, as it then existed have been filed, and where returns and tax deduction certificate issued by the awarder have been produced, assessment may be completed accepting the awarder's certificate.

(v) In case of contracts in respect of which tax is paid under section 5 of this Act, and where returns and statement of accounts have been filed, but the returns are found to be incorrect or incomplete, assessments may be completed determining additional tax payable at twenty per cent of tax paid to a minimum of ten thousand rupees:

(vi) All assessments under the KGST Act pending as on 1st day of April, 2008 will have to be completed under the fast track method. In this context, the following instructions are issued;

(vii)All Assessments under KGST Act for the assessment years up to 2004-05 shall hereafter be completed under this provision only.

2.The assessment shall be completed by applying the above provisions of Law.

3. The teams constituted for completion of section 17D assessments shall hold maximum sittings in a week with out affecting their regular work of the parent office of the officers included in the team.

4. The notice issued for production of books of accounts shall contain a list of details required to be produced or filed at the time of hearing so as to avoid adjournment of cases for want of details. The list shall be prepared depending on the requirements in each file.

5. Verifications of the check post declarations may be made and cases, if any, detected shall be disposed depending on the merits of each case.

6. The onus of proving the details furnished in the returns such as, claim of exemption, reduction in tax rate etc; is on the dealer. The dealers are required to file statements of interstate purchases effected by them during the respective period. They are also required to file statements of statutory declarations issued and received during the year. No assessment shall be adjourned merely on the ground that all statutory forms for proving a particular claim have not been filed. In such cases assessments have to be completed in accordance with the provisions of the Act, as if there are no such forms. But no additions to the turnover shall be resorted to merely for the said omission.

7. While completing the assessments special care should be given to see that due credit has been given to the assesseees in respect of all the remittances made by them. No credit shall be disallowed merely on the ground that the concerned challans are not available in the file. In such cases credit shall be given based on the entries in the cheque register supported by a certificate issued by the concerned bank. The credit details should be verified before the hearing date and the dealer shall be informed of the missing credits, if any, sufficiently early so that they can appear with the required bank certificate at the time of hearing.

8. Even though the assessment order shall have to be signed by all members of the team, the pre-assessment notices approved by the team need not be signed by all the team members. It is made clear that anyone of them can sign the pre-assessment notice on behalf of the team.

9. In cases of accepted assessments no elaborate assessment orders need be issued; orders can be confined to the minimum requirements. But in case of best judgment assessments the assessment order shall be a speaking one.

10. Separate assessment orders have to be issued for each year. CST Assessments, if any, has to be simultaneously completed along with the KGST Assessment.

11. After finalizing the assessment, assessment orders shall be issued within seven days and the assessment records shall be returned immediately to the concerned assessing authority after dispatching the assessment order, and thereafter the assessing authority shall pursue coercive action for getting the demands realized.

12. Modification or revision of assessments done by the team consequent to the implementation of the appellate orders shall be done by the concerned assessing authority himself. LAR/DP, if any, shall also to be dealt with the assessing authorities.

13. The Deputy Commissioners shall re-deploy sufficient staff for the smooth functioning of the teams.

14. The intention of bringing such a provision is to complete all pending assessment within a period of six months adopting a flexible approach without any revenue leakage. The Deputy Commissioners shall schedule the programme in such a way that the objective declared in para 156 of the Budget Speech by the Hon'ble Minister for Finance for the year 2008 is achieved.

Commissioner.