

No.F2-70080/04

Office of the Commissioner  
Commercial Taxes  
Thiruvananthapuram  
Dated: 05.02.05

**CIRCULAR.NO.3/2005**

The Hon'ble High Court of Kerala had occasion to consider a case in which the Government Pleader has pointed out that while 648 appeals are pending before for hearing the Appellate Assistant Commissioner, Kannur had taken up an appeal dt.02.06.03 for hearing. The Hon'ble Court has observed that probably there may be instances where early hearing and disposal are required when parties have closed down business on account of retirement of partners or change in the constitution of the dealer, sale of business as a whole etc. The Hon'ble Court has also directed that excepting cases covered by orders of the Court directing the disposal of appeal within a time frame, and in cases where the Appellate authority consider part payment of disputed tax or otherwise posts the case for early hearing, appeals should be taken up for hearing in the normal course in the order of priority. In the judgment the Hon'ble High Court observed further as follows:-

“The Commissioner should ensure that undue favouritism should not be shown by the appellate authorities under the statute and cases should be taken up purely in the order of priority excepting specific cases where early posting is granted on good and sufficient grounds”. The court also directed to issue immediate instructions to all the appellate authorities to ensure that appeals are taken up strictly in the order of priority and they should record reasons for giving any priority to any appellant for early hearing.

In the circumstances, it is directed that all the Deputy Commissioner (Appeals) and Appellate Assistant Commissioners should ensure that the appeals and petitions are heard and disposed only in accordance with priority and in any circumstances if any case is disposed out of turn, there should be valid reasons for closing so, and such reasons should be recorded.

Sd/-  
COMMISSIONER