

CIRCULAR No.25/2007

Sub:- KVAT Act,2003-Collection of Advance Tax from Live Chicken Dealers- further instructions issued-reg

Read:- (1) Letter No.E9-28971/04 dt. 1/7/04 of Director, V&ACB

(2) Circular No 4/2007 dt 8/2/07 of Commissioner, Commercial Taxes.

(3) Circular No 7/2007 dt 15/2/07 of Commissioner, Commercial Taxes.

(4) Judgment in WP(C)No 5516/07 dt 26/2/07 of Hon'ble High Court of Kerala.

(5) Circular No 12/2007 dt 2/3/07 of Commissioner, Commercial Taxes

Interstate transport of Live Chicken into Kerala has long been a sensitive issue. The Director, Vigilance and Anti Corruption Bureau in the reference first cited has stated that a registered dealer was found to have set up an office across the Check Post at Nadupunni and was supplying delivery notes to all vehicles which were coming through the Check Post, enabling even non-registered traders to take their goods across the State borders. Non-registered traders would ordinarily have to pay security deposit in addition to tax, hence the advantage of the bill trading.

As per Circulars read as 2nd and 3rd paper above, instructions were issued regulating issue of Departmental Delivery Notes to dealers in Live Chicken and collection of Advance Tax in respect of the consignments transported under cover of the Departmental Delivery Notes issued to such dealers. These restrictions were imposed with an intention to reduce bill trading activity being carried on in this sector.

Later the Hon'ble High Court of Kerala, while disposing the writ petition read as 4th paper above, after recording the undertaking of the petitioners to pay Advance Tax at the *en route* check posts, has directed to issue sufficient blank authenticated Delivery Notes in Form 15 to the petitioners.

Based on the said direction the dealers were given *inter alia* an option to remit Advance Tax either before the concerned assessing authority or at the Commercial Tax Check Post at the entry point as per Circular read as 5th paper above.

Normally 'Live Chicken' consignments pass through the check posts during midnight or thereabouts; such consignments arrive at the check posts in convoy during odd hours, thereby creating rush in the check posts. The persons accompanying the vehicles usually remit the tax in cash at the check post. Collections on this account on Tuesdays and Fridays touch around Rs.20 lakhs on the average. The border check posts are located in remote areas and apart from security issues of keeping such huge amounts in the check posts having one or two staff on duty, they experience difficulty in verifying the genuineness of the currency remitted in the check posts in spite of the mechanical devices provided to verify the genuineness of the currency. There has even been an instance of dacoity at Nadupunni check post in Palakkad District which has not been solved as yet.

Now the Inspecting Assistant Commissioner, Chittoor has reported instances of tendering fake currency as tax by Live Chicken transporters. The bank authorities have detected and destroyed the following fake currency from the cash bundles sent for remittance from Naduppunni Check Post.

Sl. No	Currency No	Denominatio	Date of detection
1	9AT975306	1000	31-05-2007
2	4AC881221	1000	31.5.2007
3	9AT93766	1000	02-06-2007
4	9AT957723	1000	04-06-2007
5	4AC872977	1000	05-06-2007
6	7AB893083	1000	05-06-2007
7	7DD592728	500	28-05-2007
8	6BL260820	500	29-05-2007
9	5BL812222	500	29-05-2007
10	4BL368364	500	30-05-2007
11	OAA599635	500	02-06-2007
12	2BW561232	100	01-06-2007
13	9AM951985	100	01-06-2007
14	0AB436566	100	04-06-2007
15	8PD916997	100	04-06-2007
16	8AL335456	100	05-06-2007

Obviously measures have to be put in place to prevent recurrence, especially since the currency is brought for remittance by persons accompanying consignments of Live Chicken who may have little or no acquaintance with the check post officials if the fake currency is not identified on the spot.

In these circumstances the following further instructions are issued:

Dealers who pay advance tax on the transport of Live Chicken shall remit the amount by way of demand draft only drawn in favour of the Commercial Tax Inspector of the respective check posts through which the goods are transported.

However there could be objections that Banks are not open in the middle of the night for demand drafts to be taken. To obviate this problem there will also be an option for such amounts to be paid in advance of the arrival of consignments by demand draft during normal working hours, and a running account maintained with the check post reducing the actual amount payable for each consignment from the amount tendered initially; the check post authorities should endorse payment details on the transporter's copy of the delivery note.

The check post authorities shall not accept the advance tax of such transports other than by way of demand draft as detailed above.

It is to be hoped that the Banks issuing the demand drafts will follow the KYC norms of the Reserve Bank of India and that bill trading in delivery notes will die down.

Considering the need to give sufficient time to all concerned to adapt to this new procedure, this Circular shall come into force only from 10th July, 2007.

Commissioner

To

All concerned