

C1. 150/05/CT

Office of the Commissioner
Commercial Taxes
Thiruvananthapuram
Dated.02..06..05

CIRCULAR No.11/05

Sub:- KVAT Act- 2003- Claim of input tax credit of U/s. 11(3)-
Determination of Input tax credit on opening stock as on 01.04.05-
instructions- Reg:

Ref:- Circular No.5/05 Dt. 04.04.05 of Commissioner of Commercial
Taxes

As per sub-section (13) of section 11 of the KVAT Act, 2003 input tax credit is allowed to a registered dealer in respect of the tax paid under the KGST Act on goods purchased by him during the period from 01.04.2004 to 31.03.2005 and held as opening stock on 01.04.2005 and sold or used in manufacture of taxable goods or used in the execution of works contract or used as containers or as packing materials for the packing of taxable goods in the state for sale there after, against the output tax payable by him. Rule 12 of the VAT Rules 2005 lays down the procedure for determining inputs tax credit in respect of opening stock. The dealer claiming input tax credit under section 11(13) has to furnish the opening stock inventory as on 01.04.2005, separately for goods falling under different schedules. Even for goods falling under the same schedule, separate details should be furnished in respect of goods.-

- (i) purchased within the state from dealers registered under the KGST Act-
 - (a) where the purchase bills show the tax collection separately and
 - (b) Where the bills do not show the tax collection separately.
- (ii) purchased from outside the state.

The dealer claiming input tax credit is also required to submit a statement in Form No. 25A. The stock inventory and the statement in Form No.25A were required to be submitted on or before 30.04.05. The

assessing authorities had the power to extend the date by fifteen days in deserving cases.

2. Sub-rule (5) and (6) of Rule 12 permit the dealers to claim the input tax credit in the manner prescribed there under even before the assessing authorities verify the claims. However the claims have to be verified simultaneously to ensure that undue benefit is not derived by dealers behind this provision.

3. The following procedure shall be followed by the assessing authorities to ensure the genuineness of the claim and prevent any malpractice:

- (i) A register shall be maintained in each office in the following format for watching the receipt and movement of Form 25A and connected statements.

Sl.No	Date of Receipt	Name of Dealer with TIN	Amount of input tax credit claimed by the dealer. (Rs)	Amount of input tax credit allowed by the Assessing authority (Rs)
1	2	3	4	5

Date on which the case referred to audit assessment wing	Acknowledgment from audit assessment wing	Date of receipt of report from the audit assessment wing	Amount of Input tax credit admitted after verification by audit assessment wing. (Rs)
6	7	8	9

(ii) Where a dealer claiming input tax credit has not submitted any details required by Rule 12, in the Form No. 25A or along with such form, such dealer shall not be permitted to claim any input tax credit under section 11(13). Where such a dealer claims input tax credit in the return, notice shall be issued to the dealer for rejection of return.

(iii) Where on the basis of such notice the dealer submits the details or cures any defect pointed out, the case shall be proceeded with as specified in the following paragraphs and the dealer shall be allowed to claim input tax credit in three equal monthly installments subsequent to the month in which the revised statements are filed or defects are cured, provided the stock inventory and statement in Form No. 25A had been filed in time.

(vi) The closing stock value under each head (goods purchased interstate and those purchased from registered dealers within the state) as on 31.03.05 should be compared with the figures for 31.03.04 and 31.03.03 to see whether the closing stock of goods purchased from within the state is inflated when compared to the corresponding figures for 31.03.04 and 31.03.03. If any glaring difference is noted, such cases should be noted separately, noting the defect. Such cases may be further certified with reference to the back records to see whether the dealer had any history of showing accumulation of stock. If so that should also be noted specifically.

(v) The statement of purchase bills will be cross verified with reference to the stock inventory to see whether the value shown is only for the quantity held in stock. If any excess claim is found, such cases should be listed noting the defect.

(vi) In the case of the list of purchase of goods taxable at the point of first sale and purchased from the first seller, the correctness of the rate of tax applicable to the goods (including AST) should be verified with reference to the tax shown in the statement as paid. Cases where irregularities are noticed should be listed.

(vii) In the case of purchases from second or subsequent sellers, after verifying the correctness of the rate of tax, the correctness of the calculation of the tax component based on the formula $\frac{9 PR}{10(100+R)}$ or $\frac{85 PR}{100(100+R)}$ as the case may be) may be verified. Cases in which discrepancies are noted may be listed.

(viii) Goods included in the stock inventory may be verified to see whether the items included in the list are taxable under the VAT Act. Discrepancies, if any, found may be listed.

(ix) Cases, which require further verification of accounts or stock, shall be communicated to the Dy. Commissioner (Audit Assessment) and the Dy. Commissioner of the District concerned.

(x) Where on preliminary scrutiny no irregularity as specified in the foregoing paragraphs is noticed, the claim of the dealer shall be provisionally accepted and the dealer informed accordingly. Where on preliminary scrutiny it is found that a particular case needs to be referred to the Dy. Commissioner (Audit Assessment) the dealer may be informed that the claim of input tax credit under sub-rule (6) of Rule 12, will be subject to further verification and admission of the claim.

(xi) Goods purchased as per invoices which relate to any date prior to 01.04.2004 shall be deemed to have been purchased prior to 01.04.2004 even if the goods actually reached the dealer on or after 01.04.2004. Similarly goods purchased as per invoices which relate to a date prior to 01.04.2005 shall be deemed to have been physically available with the dealers on 31.03.2005 even if the goods actually reached the dealers on or after 01.04.2005.

(xii) In case where the dealer claims input tax credit in respect of goods taxable at the point of first purchase or last purchase and the tax has been directly paid by him, as per sub-rule (5) input tax credit can be claimed by the dealer in three equal monthly installments commencing from the return for the month of April 2005 onwards. For this, it would be necessary to get the details of such taxes paid. But the form No. 25A prescribed by the rules does not contain any columns to furnish the details. Dealers claiming input tax credit as above may therefore be asked to furnish the details relating to the goods in relation to which input tax credit is claimed, in the revised form No. 25A, copy of which is annexed to this circular.

(xiii) The scrutiny of the claim will be completed on a time bound basis. A minimum of 15 cases shall be scrutinized by each Commercial Taxes officer daily. The Commercial Tax Officers shall make an endorsement with dated signature in all form No. 25 A regarding completion of scrutiny at their level. List of cases in which anomalies are noticed shall be sent to the Dy. Commissioner (Audit Assessment) or the officer designated by him within three days of the scrutiny. Any statement in form No. 25A furnished by any dealer shall not be rejected on the ground that details of goods falling under the 3rd schedule to the KGST Act, or the goods exempted under section 10 of the KGST Act which was held as closing stock on 31.03.05 have not been furnished.

(xiv) The audit assessment wing shall complete further verification within a period of one month from the date of receipt of the records where verification of the records of the assessee or of the stock is necessary, the assessee shall be given notice which shall not be less than two days but shall not be more than one week. It shall be specifically verified whether the closing stock value furnished in form No. 25A is the value shown in the invoice after deducting the discount allowed by the seller. On completion of the verification, the Audit wing shall return the records with their findings to the assessing authorities within one month.

If the Audit Assessment Wing finds that the dealers claim is not in order and is eligible for input tax credit only for a lesser amount, the assessing authority shall admit the claim as recommended by the audit assessment wing after due notice to the dealers.

(xv) Where the audit assessment wing finds that further investigation or enquiry is required in a particular case, the Dy. Commissioner (AA) concerned shall refer such cases to the Dy. Commissioner (Int) of the area. The Dy. Commissioner (Int) shall arrange further enquiry/investigation/other action required , which shall be completed within a period of two weeks from the date of receipt of the communication from the Dy. Commissioner (AA) and return the records of the case to the Dy. Commissioner (AA) who shall retransmit them to the assessing authorities concerned on proper acknowledgment.

4. The Dy. Commissioners shall circulate these instructions among all officers of VAT circles, Intelligence wing and audit assessment wing and get it acknowledged.

Sd/
Commissioner

/Approved for Issue/

Deputy Commissioner (General)

To

All Officers

THE KERALA VALUE ADDED TAX RULES, 2005

FORM No. 25A

APPLICATION FOR INPUT TAX CREDIT ON OPENING STOCK HELD AS ON 1-4-2005

(SEE RULE 12(2))

HELP LINE contact persons/Ph. Nos.

(TRANSITIONAL RELIEF)

Date:

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TIN*									

01. Name & Address of the dealer

02 List of Goods in Stock as on 1st April 2005 on which a claim of input tax credit is made										
GOODS TAXABLE AT SALE OR FIRST PURCHASE POINT UNDER THE KGST ACT, 1963										
Sl. No.	Name of the supplier with KGST No.	Description of goods	Quantity in hand	Invoice No. and date	Value of the goods held in stock as on 31/03/2005	Rate of KGST Including AST	Amount of tax reflected in the Invoice/Bill	Amount of Input Tax applying formula under rule 12(3) for goods other than declared goods (FSP / FPP) *	Amount of Input Tax applying formula under rule 12(3) for declared goods	Input Tax Credit admissible on Sale point good (8+9+10)
1	2	3	4	5	6	7	8	9	10	11
TOTAL										

03	List of Goods in Stock as on 1st April 2005 on which a claim of input tax credit is made								
GOODS TAXABLE AT PURCHASE POINT UNDER THE KGST ACT,1963									
Sl. No.	Name of the supplier with KGST No. Invoice No. and date.	Description of goods	Quantity in hand	Purchase value of first purchase point goods at average cost during March 2005	Input Tax credit admissible on such FPP goods	FPP tax actually paid on actual purchase value (applicable to first purchaser only)	Closing stock value of last purchase point goods as on 31/03/2005	LPP Tax paid on such closing stock of LPP goods	Input Tax credit admissible on purchase point goods (7+9)
1	2	3	4	5	6	7	8	9	10
TOTAL									
04	Stock taken by (Status of person concerned)								
05	Name & Address of the Chartered Accountant or Cost Accountant who certified stock statement as on 31/03/2005 **								

Note: Use additional sheets if space is insufficient.

Declaration

I / we..... here by declare that the particulars furnished herein are true to the best of my/our knowledge, belief and information and that no material facts have either been concealed or misrepresented

(SEAL)

Name, Signature and status of the person signing

Complete in Duplicate

FOR OFFICE USE	VAT OFFICER
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Fill up only columns which are relevant to the dealer submitting the form

Fill up only columns which are relevant to the dealer submitting the form
 *. Here note the input tax relating to goods taxable at the point of first sale/ first purchase where the dealer claiming input tax credit had purchased the goods from a second or subsequent seller or from the first or subsequent purchaser, as the case may be.

** Applicable only in the case of dealers who were covered by Sec. 27A of the KGST Act 1963 during 2004-05.

