

**FIFTEENTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2021-2023)**

**EIGHTH REPORT**

**On**

**Action Taken by Government on the Recommendations  
contained in the Twentieth Report of the  
Committee on Public Accounts  
(2001-2004)**

COMMITTEE ON PUBLIC ACCOUNTS  
(2021-2023)

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Shri Reji B., Joint Secretary

Shri R. Venugopal, Deputy Secretary

Smt. Shamy J., Under Secretary.

## **INTRODUCTION**

I, Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Eighth Report on Action Taken by Government on the Recommendations contained in the Twentieth Report of the Committee on Public Accounts (2001-2004).

The Committee considered and finalised this Report at the meeting held on 9th February 2022.

Thiruvananthapuram,  
16th March, 2022.

**SUNNY JOSEPH,**  
*Chairman,*  
*Committee on Public Accounts.*

## **REPORT**

This Report deals with the action taken by the Government on the recommendations contained in the 20th Report of the Committee on Public Accounts (2001-2004).

The 20th Report of the Committee on Public Accounts (2001-2004) was presented in the House on 13th June 2002. The Report contained thirty recommendations related to Taxes Department. The Government was addressed on 25-6-2002 to furnish the Statements of Action Taken on the recommendations contained in the Report and final reply was received on 27-7-2016.

The Committee examined the statements of Action taken in its meetings held on 28-6-2005, 13-9-2006, 10-1-2007, 31-10-2007, 10-4-2012, 15-5-2013, 17-6-2015 and 30-11-2016. The Committee was not satisfied with the Action Taken by the Departments on the recommendations contained in Paragraphs 31, 32, 36, 38 & 49 and decided to pursue further. These recommendations, reply furnished thereon and further recommendations of the Committee are included in Chapter I of this Report. The Committee decided not to pursue action on the remaining recommendations, in the light of the replies furnished by the Government. Such recommendations/comments and their replies are incorporated in the Chapter II of this Report.

### **CHAPTER I**

#### **RECOMMENDATIONS IN RESPECT OF WHICH ACTION TAKEN BY GOVERNMENT ARE NOT SATISFACTORY AND WHICH REQUIRE REITERATION**

#### **TAXES DEPARTMENT**

##### **Recommendation**

(Sl. No. 6, Para No. 31)

1.1 The Committee notice that there was delay ranging from 24 to 233 months in re-assessing 75 remanded assessments which resulted in blockage of revenue of ₹ 42.01 crore. The Committee feels that the main reason for several cases becoming time barred is the absence of a well defined procedure and  
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the absence of an adequate machinery in the Department to take action when the number of cases increased largely. The Committee, therefore, recommend that the procedure of settling the remanded cases and original assessments within three months from the date of receipt of order should be laid down by the Department rather than waiting for the maximum time limit of 4 years.

### **Action Taken**

1.2 The power vested on the appellate authorities to remand assessments as per Section 34 of KGST Act 1963 had been withdrawn by Government w.e.f 23-7-2001 [clause (a) of sub section (3) of Section 34 substituted by F.A. 2001]. Also as per Finance Act 2006 all the pending remanded cases shall be finalized before 31-3-2007.

1.3 Also in order to wipe out all assessments under KGST Act 1963, pending as on 1-4-2007 a new provision under Section 17(D), fast-track system of completing pending assessments has been introduced. As per this section, pending assessments have to be completed by special teams constituted by the CCT for each district. Hence there is no chance of any delay occurring in completion of remanded assessments.

### **Further Recommendation**

1.4 The Committee directs the Department to apprise it of the details regarding the present status of the cases, number of cases pending in the courts, number of cases stayed by the court and the steps taken to settle the other cases.

### **Recommendation**

(Sl. No. 7, Para No. 32)

1.5 The Committee could find no justification for the financial accommodation to the tune of ₹ 99.04 crore granted to 131 assesseees on account of failure in taking intimation of stoppage of business and delay in issue of demand notices. The Committee deplore the tendency of the Department to ignore the time limit prescribed in this regard. The Committee, therefore recommend that stringent action should be taken against the delinquent officers for their lapses.

### **Action Taken**

**Para 32 of the PAC Report includes Paras 2.2.7 (i&ii) of C&AG report for the year ended 31-3-1998**

#### **Para 2.2.7(i)**

1.6 The audit objection pointed out by the AG is that in 10 offices in 52 assessments (15 cases) even though the stoppage of business were intimated to the department, delay ranging from 20 to 132 months had occurred in finalizing their assessments. Short levy worked out is ₹ 372.49 lakhs.

1.7 On the 15 cases AG has specifically mentioned only 7 major cases (28 assessments) and not listed out the details of the balance 8 cases (24 cases). After a lapse of 20 years and more and dislocation of files in connection with switch over from KGST regime to VAT regime it is practically difficult to come across with the assessment records concerned in many offices despite earnest attempt made from the side of the present officers.

1.8 The procedure followed in circle offices for distribution of files is on alphabetical basis. The allocation of alphabet order may change some times on direction from higher authorities. As per rules, the assessment under KGST was to be completed within 4 years from the year to which the assessment relates. When an assessment record was traced out now, the name of officer who has completed the assessment alone can be ascertained. But whether he is responsible for the delay in completing assessment or not, or the name of officer who ought to have completed the assessment cannot be confirmed for the reasons stated above at this juncture and in the distance of time. The action taken report on major cases pointed out by AG is submitted as under.

**I. AC., Special II., Kozhikode**

**Santhilal K. Dev, Rajhums Spices 1981-82 to 1984-85**

The observation of AG is that there is delay of 31 to 122 months in completing the assessments. Short levy of ₹ 150.23 lakhs.

The assessment were completed by the following officers as detailed below:

Year of Assessment	Date of order	Name of Officer	Date of Retirement
81-82	14-9-1998	T. M. Velayudhan	1-11-2009
82-83	10-11-1999	C. Satheendran	25-1-2000
83-84	19-2-1997	T. M. Velayudhan	1-11-2009
84-85	19-2-1997	T. M. Velayudhan	1-11-2009

## II. AC., Special II., Kozhikode

**Chandrabanu Gupta**

**M/s. Davesh Spices, Kkd 1981-82 to 1988-89**

The observation of AG is that there is delay of 31 to 122 months in completing the assessment. Short levy of ₹ 77.03 lakhs.

Year of Assessment	Date of order	Name of Officer	Date of Retirement
81-82 & 82-83	10-12-1996	P A Syed Mohammed Musthafa	30-10-2007
83-84 to 88-89	11-12-1996	-Do-	-Do-

## III. First Circle, Tvpm

**M. Ashraf, Ashraf Stores, Kkd 1986-87 to 1993-94**

The observation of AG is that there is delay of 20 to 39 months in completing the assessment. Short levy of ₹ 30.71 lakhs.

The assessment records are not traceable. The officers who worked for the period (1987 to 1995) were Sarva Shree Selvarajan Nadar, V. Surendran, P. Babu, P. Soman, R. Sreedharan Pillai, P. Parameswaran Nair, K. Krishna Pillai and Smt. P. Sudhadevi, who were retired from service before 2005.

**IV. AC., Special Circle -II, Kkd****E. P. Rehman, Peeyar Traders, Kkd 1984-85**

The observation of AG is that there is delay of 31 to 122 months in completing the assessment. Short levy of ₹ 23.42 lakhs.

The assessing authority has informed that even after earnest efforts the assessment records could not be traced out. So the officer who have completed or ought to have completed the assessment cannot be established.

**V. AC., Special Circle, Tvpm****M/s. East Land Combines, Trivandrum**

The observation of AG is that there is 96 months delay in completing the assessment. Short levy of ₹ 17.48 lakhs.

The assessment for the year 1984-85 to 86-87 were completed by Smt. P. Sivasudha devi who retired form service on 31-3-2010. The arrears were advised for RR collection.

**VI. CTO, First Circle, Ekm****Shri Wilton Korriya, M/s. Jubilee Mosaic Floorings,****Vaduthala (1984-85 to 1986-87)**

The observation of AG is that there is 78 months delay in completing the assessment. Short levy of ₹ 10.05 lakhs.

Dealer has closed the business on 31-3-1988 and the assessment for the above year was completed on 30-11-94 by Shri P. A. Raghavan, CTO (Rtd). The date of retirement is 30-11-2004.

**VII. AC., Special Circle -II, Ekm****M/s. Pearlite Wire Products**

The observation of AG is that there is 25 to 41 months delay in completing the assessment. Short levy of ₹ 7.95 lakhs.

The present assessing authority has informed the assessment of the dealer for the year 79-80 was completed by Shri V. K. Abdul Jabbar on 31-8-1996 and he already retired from the service on 30-6-2012. The assessing authority has further



reported that the company went on liquidation and property were in the custody of official liquidator and on this ground District Collector, Ernakulam returned the RRC. The officer also has reported that the Ministry of Corporate Affairs intimated that 26B of KGST is applicable only in the case of a running business. If a company is liquidated, provision of Companies Act section 529A if applicable and it has overriding effect in State Sales Tax Act.

#### **Para 2.2.7 (ii) of the C&AG Report.**

##### **Delay in issue of Demand Notice**

The audit observation of the C&AG is that in 16 offices, in 184 assessments of 116 assesses there is delay ranged from 3 to 48 months. Tax involved in the cases is ₹ 9531.69 lakhs.

On a close reading of C&AG observation it seems that the amount of ₹ 9531.69 lakhs represents for tax amount involved in the cases where there is delay in despatching demand notices. It does not mean that the State has lost the said amount due to delay in the service of demand notice. What would have lost is the interest on the tax amount. It would come to a very small amount.

On the 116 cases (184 assessments) C&AG has specifically pointed out only 15 cases (41 assessment) and not listed out the balance no. of cases and assessments. After a lapse of 20 years and more and dislocation of files in connection with switch over from KGST regime to VAT regime it is practically difficult to come across with the assessment records concerned in many offices despite earnest attempt made from the side of the present officers.

Even though the files were being distributed among officers in a circle on the basis of alphabets starting from A to Z, sometimes there were changes in the allocation of alphabets depending upon the situations and direction from higher authorities. Therefore even if the assessment records are traced out the name of officer who are responsible for delay in issuing demand notice within the period prescribed by the statute cannot be confirmed.

However the assessment records called for and verified on 31-12-2013 and 3-1-2014. Action taken report on major 15 cases (41 assessments) pointed out by the C & AG is submitted as under.

**1. Special Circle-II., Ekm****Premier Cables 1988-89 to 1990-91**

AG has observed 3 months delay in issuing of demand notice in this case. Tax involved is ₹ 767.18 lakhs.

All the assessments were completed by Shri V. K. Abdul Jabbar on 31-8-1996 who already retired from service on 30-6-2012. The present AC has informed that the company went in liquidation and properties were in custody of the official liquidator and in all the cases the Dist. Collector, Ernakulam returned the RRC on the point that if a company is liquidated, provisions of Companies Act is applicable and it has overriding effect on State Sales Tax.

**2. Special Circle-II., Kollam****Punalur Paper Mills**

AG has observed 3 months delay in issue of demand notice in this case. Tax involved ₹ 759.01 lakhs.

The present AC has reported that for revival of the company as per G. O. (Ms.) No. 180/10/ID dated 20-8-2010 of Industries (G) Department after giving certain relief the Govt. have fixed the arrears at ₹ 2.27 crores and this has been collected. Hence there is no short levy.

**3. Special Circle II, Ekm****Premier Cables 1984-85 to 1986-87**

AG has observed 4 months delay in issue of demand notice in this case. Tax involved is ₹ 358.53 lakhs.

All the assessments were completed by Shri V. K. Adul Jabbar on 31-8-1996 who already retired from service on 30-6-2012. The present AC has informed that the company went in liquidation and properties were in the custody of the official liquidator and in all the cases the Dist. Collector, Ernakulam returned the RRC on the point that if a company is liquidated provisions of Companies Act is applicable and it has overriding effect on State Sales Tax.

**4. AC, Special Circle, -II., Ekm  
Premier Cables 1987-88**

AG has observed 3 months delay in issue of demand notice in this case. Tax involved is ₹ 311.60 lakhs.

All the assessments were completed by Shri V. K. Abdul Jabbar on 31-8-1996 who already retired from service on 30-6-2012. The present AC has informed that the company went in liquidation and properties were in the custody of the official liquidator and in all the cases the Dist. Collector Ernakulam returned the RRC on the point that if a company is liquidated, provisions of Companies Act is applicable and it has overriding effect on State Sales Tax.

**5. AC, Special Circle-II., Ekm  
M/s. Videocon International**

AG has observed 4 months delay in issue of demand notice in this case. Tax involved is ₹ 120.02 lakhs.

The original assessment was completed on 16-2-1997. But demand notice was issued only on 16-7-1997. Thus there was a delay of 4 months. The original assessment was remanded in appeal and the case was again completed exparte on 30-10-1999. The dealer again filed appeal and the DC (A) remanded the case for fresh disposal in his order dated 15-2-2000. The remanded assessment was completed on 30-11-2003 with excess payment adjusted to 93-94. Original assessment was completed by Shri V. K. Abdul Jabbar who already retired from service on 30-6-2012. There is no short levy of interest.

**6. Special Circle, -III, Ekm  
Tamil Nadu Cement Corporation 1986-87 & 1987-88**

AG has observed 12 months delay in issue of demand notice in this case. Tax involved ₹ 93.16 lakhs.

The assessment in this case was completed on 30-12-1993. But date of issue of demand notice is 19-1-1995. The present AC has informed that the file is not traceable after earnest efforts and so the name of the officer who completed the assessment and responsible for inordinate delay in despatching the demand notice cannot be located.

**7. AC, Special Circle-II, Ekm**  
**M/s. Expo Machinery 1992-93**

AG has observed 7 months delay in issue of demand notice in this case. Tax involved ₹ 49.07 lakhs.

The original assessment in this case was completed by Shri M. M. Radhakrishnan who retired from service on 30-8-2006. The assessment was modified in appeal and modified order issued on 30-11-1997. As per the modified order no balance outstanding against the dealer.

**8. Special Circle-II, Ekm**  
**Pearlite Wire Products 1985-86 to 1992-93**

AG has observed 9 months delay in issue of demand notice in this case. Tax involved ₹ 31.70 lakhs.

All the assessments were completed by Shri V. K. Abdul Jabbar on 31-8-1996 who already retired from service on 30-6-2012.

The present AC has informed that the company went in liquidation and properties were in the custody of the official liquidator and in all the cases the Dist. Collector, Ernakulam returned the RRC on the point that if a company is liquidated provisions of Companies Act is applicable and it has overriding effect on State Sales Tax.

**9. AC, Special Circle-II, Ekm**  
**M/s. Crompton Greaves**

AG has observed 7 months delay in issue of demand notice in this case. Tax involved ₹ 25.41 lakhs.

In this case assessment was completed by Shri M. M. Radhakrishnan who retired from service on 30-8-2006 denying sale in transit. Assessee went in appeal and Tribunal allowed exemption to all sale in transit and no amount is due from the assessee. Hence no short levy.

**10. First Circle, Ernakulam**  
**M/s. Taj Sea Foods 1980-81 to 1985-86**

AG has observed 15 months delay in issue of demand notice in this case. Tax involved ₹ 18.58 lakhs.

The present AC has reported that even after earnest efforts she was unable to trace out the assessment records and so not in a position to report the name of the officer who has completed the assessment.

**11. Special Circle-II, Ekm**

**M/s. Blue Star. 1984-85 & 1985-86**

AG has observed 7 months delay in issue of demand notice in this case. Tax involved ₹ 17.96 lakhs.

The assessment for the years were originally completed on 28-2-1987. This was challenged in appeal and the DC(A) in order dated. 24-4-1990 remanded the case for fresh disposal. Accordingly the assessment was completed on 30-12-1996, but demand notice served belatedly. This was again challenged in appeal and the Addl. DC(A), Ekm in order dated. 22-1-1998 directed to allow the compounding application of the contract work filed by the assessee after verifying the facts. Accordingly the assessment were modified in which the balance dues were considerably reduced. The assessee paid the amount fully under amnesty scheme. The original assessment in these cases were completed by Shri M. M. Radhakrishna, AC, already retired from service on 30-8-2006.

**12. Special Circle-II, Ekm**

**Pearlite Wire Products 1980-81 to 1982-83**

AG has observed 9 months delay in issue of demand notice in this case. Tax involved ₹ 17.49 lakhs.

All the assessments were completed by Shri V. K. Abdul Jabbar on 31-8-1996 who already retired from service on 30-6-2012. The present AC has informed that the company went in liquidation and properties were in the custody of the official liquidator and in all the cases the Dist. Collector, Ernakulam returned the RRC on the point that if a company is liquidated, provisions of Companies Act is applicable and it has overriding effect on State Sales Tax.

**13. Third Circle, Kozhikode**

**Chelloth Estate. 1984-85 to 1989-90**

AG has observed 4 months delay in issue of demand notice in this case. Tax involved ₹ 16.15 lakhs.

The original assessment completed by Shri P. A. Jayachandran who already retired from service on 31-5-2004. The delay in fair copying the assessment order and tracing out chalan or ensuing the payment created delay in serving demand notice in this case.

#### **14. Special Circle-I, Ekm**

##### **M. P. Kesavan & Co. 1981-82 to 1984-85**

AG has observed 7 months delay in issue of demand notice in this case. Tax involved ₹ 13.68 lakhs. The date of order is 31-7-1995 and the date of issue of demand notices 22-3-1996. The present AC has informed that the assessments under question were completed by Shri C. A. Sadasivan, AC who already retired from service on 21-5-2004.

#### **15. Special Circle-I, Ekm**

##### **Solidaire India Ltd. 1993-94**

AG has observed 32 months delay in issue of demand notice in this case. Tax involved ₹ 10.88 lakhs.

The assessment in this case has been completed by Shri P. C. Joseph, is now Deputy Commissioner under suspension. In this case the tax and surcharge due were ₹ 50,48,663.62 and ₹ 5,04,865.55 respectively. On service of the order the dealer informed that he has remitted the amount in full. On further verification of the records it is seen that in addition to the credit given in the order chalan for ₹ 7,10,217 and bank statement for ₹ 3,80,105 are filed in the assessment records. But the chalan for the same is not filed. Considering this there is no dues outstanding in this case.

1.15 In this para, (Para 2.2.7(i) and 2.2.7(ii) of the C&AG report for the year ended 31-3-1998) the PAC has ordered to take disciplinary action against the officers concerned and realise the amount due to Government. In this connection it may please be seen that out of short levy of ₹ 99.04 crore reported by C&AG ₹ 95.31 crores relates to the defects pointed out on para 2.2.7(ii). On a close reading of C&AG observation it seems that the amount of ₹ 9531.69 lakhs represents for tax amount involved in the cases where there is delay in despatching demand notices. It does not mean that the state has lost the said amount due to

delay in the service of demand notice. What would have lost is the interest on the tax amount. It would come to a very small amount. On the 22 cases tabulated by C&AG, after earnest efforts the department was able to trace out the assessment records relating to 18 cases but it may kindly be noted that the details of the officers responsible for the revenue loss on whom disciplinary action has to be initiated cannot be identified.

**Recommendation**  
**(SI No. 11, Para No. 36)**

1.9 The Committee do feel that the Department ought to have taken deterrent action in cases of bonafide omission to levy and collect interest amounting to ₹ 2.41 crore from the assesseees and revenue recovery cases. The Committee, therefore, recommend that responsibility should be fixed in this regard and immediate action should taken to realise the money due to Government.

**Action Taken**

**Para 36 of the PAC Report includes para 2.2.9(i&ii) of the C&AG Report ended on 31-3-1998**

**Para 2.2.9(i)**  
**Realization of interest**

1.10 In this para AG has observed that in 6 offices in the case of 7 assesseees interest due on admitted tax remaining unpaid as per annual return of the preceding year as provided under section 23(3) of the KGST Act 1963 was not demanded. Short levy ₹ 197.37 lakhs.

1.11 Even though the files were being distributed among officers in a circle on the basis of alphabets starting from A to Z, sometimes there were changes in the allocation of alphabets depending upon the situations and direction from higher authorities. Therefore even if the assessment records are traced out the name of officer who are responsible for delay in issuing demand notice within the period prescribed by the statute cannot be confirmed.

1.12 However the assessment records called for and verified on 31-12-2013 and 3-1-2014. Action taken report on the cases tabulated by C&AG is submitted as under.

**1. Special Circle-I, Ekm**  
**M/s. Madhu Steel Co.**  
**1987-88 to 1991-92**

In this case AG has observed omission to levy interest of ₹ 69.28 lakhs.

Shri C. A. Sadasivan who completed the assessment already retired from service on 21-5-2002 and the amount is advised for collection under RR. The present AC has reported that the RC was already cancelled and RR is still pending before the District Collector, Jaipur.

**2. Special Circle, Tvpm**  
**M/s. Kerala State Beverages Corporation**

In this case AG has observed omission to levy interest of ₹ 47.39 lakhs.

In order dated 30-11-1996 the assessment for the year 1989-90 was finalized demanding tax and surcharge of ₹ 37,47,839 and ₹ 51,735 respectively. Subsequently the assessment for 1988-89 revised on 1-8-1998 creating an excess of ₹ 29,76,211. This was adjusted for the year 1989-90 and the balance tax and surcharge due reduced to ₹ 8,23,360. The assessee paid this amount as per challan No. 660 dated 4-3-1998. Accordingly the assessee is liable to pay interest @ 23% only till 3-3-1998 i.e.; ₹ 1,89,438. The assessee has paid the entire amount on 29-9-2005. The assessment was completed by S. Ramachandran who expired on 23-8-2000. There is no short levy in this case.

**3. Special Circle -I, Kollam**  
**M/s. Travancore Plywood Industries 1983-84 to 1993-94**

In this case AG has observed omission to levy interest of ₹ 31.34 lakhs.

The assessment for the years 1983-84, 1986-87 and 1987-88 were completed by Smt. K. K. Maheswari Amma, for the year 1984-85 by Shri P. Sankaran Nair and for the years 1988-89 to 1993-94 by Shri K. Jayamohan Pillai who were all retired from service on 31-8-1994, 31-5-2004 and 31-3-2010 respectively. The present AC has reported that the firm a public sector undertaking availed the benefit of amnesty scheme and settled the dues. No short levy.



**4. Special Circle-I, Ekm**  
**Madhu Trading Agencies. 1987-88 to 1991-92**

In this case AG has observed omission to levy interest of ₹ 22.80 lakhs.

The assessment for the year 1987-88 has been completed by Shri N. Ananthan, AC and for the years 1988-89 to 1991-92 by Shri C. A. Sadasivan who were already retired from service. The present AC reported that the RC was already cancelled and the RR is still pending before the District Collector, Jaipur.

**5. Special Circle -II, Kozhikode**  
**Ali koya K.M. Ahammed Koya & Co. 1989-90**

In this case AG has observed omission to levy interest of ₹ 22.63 lakhs.

The present AC has informed that the assessment records could not be traced after the earnest effort and so the assessing authority who is responsible for the short levy could not be ascertainable. The AC has also informed that the assessment is completed as exparte as the business has been stopped long back and whereabouts of the party is not known. The demand created for 1981-82 to 1991-92 was advised for RR and the same was returned by the RR authorities as the business was defunct and partners had no movable or immovable properties so as to realize the amount. Fresh RRC is issued in this case.

**6. First Circle, Tvm**  
**M/s. Navarang Agencies**

In this case AG has observed omission to levy interest of ₹ .2.90 lakhs.

The assessment records are not traceable. The officers who worked for the period (1987 to 1995) were Sarvasree Selvarajan Nadar, V. Surendran, P. Babu, P. Soman, R. Sreedharan Pillai, P. Parameswaran Nair, K. Krishna Pillai and Smt. P. Sudhadevi who were all retired from service before 2005. In the absence of records it is not ascertainable as to whether interest was levied/demanded from the dealer subject to audit.

**7. Special Circle-II, Ekm**  
**M/s. Parry & Co.**

In this case AG has observed omission to levy interest of ₹ 1.09 lakhs.

The present AC has informed that the assessment records could not be traced after earnest efforts and so the officer who is responsible for the short levy cannot be ascertained. However, present assessing authority has reported that the assessment in this case was completed within the due tenure.

**Para 2.2.9 (ii)****Non-recommendation of interest at the time of advice for revenue recovery**

The audit objection pointed out by C&AG is that in 6 offices in 9 cases when the arrear dues were recommended for revenue recovery interest due up to the date of advice of revenue recovery was not being included in the requisition slip send to the revenue authorities. Short levy worked out is ₹ 27.28 lakhs.

**1. CTO, Neyattinkara****Paul Anand**

AG has observed that interest amount of ₹ 6.48 lakhs due as on the date of advice of revenue recovery was not specifically mentioned in the RRC.

The present CTO has informed that the assessment records could not be traced out after earnest efforts and so the officer who is responsible for the short levy cannot be ascertained.

**2. Special Circle-III, Ekm****M/s. Stallion Tyres Ltd. 1986-87 to 1989-90**

AG has observed that interest amount of ₹ 5.62 lakhs due as on the date of advice of revenue recovery was not specifically mentioned in the RRC.

As per the rules the assessing authorities shall advice the amount of interest in the RRC worked out up to the time of advice with a request to collect the interest due thereon till the collection of tax. The present AC has reported that the assessing authority completed the assessment exparte. The arrears are pending for collection before the District Collector, Hyderabad. The AC has further disclosed that details of officer responsible for not levying the interest cannot be identified in the absence of assessment records.

**3. CTO, Changanassery****Wilson P. Antony 1985-86**

AG has observed that interest amount of ₹ 5.12 lakhs due as on the date of advice of revenue recovery was not specifically mentioned in the RRC.

The present AC has informed that the assessment records for the year is not traceable after earnest efforts and so the officer who is responsible is also cannot be located. But she has informed that during 2008-09 the dealer had paid the full amount in four instalment under amnesty scheme 2008-09. Therefore the audit observation does not exist now.

**4. CTO, Neyattinkara**  
**P. K. Subbaiyya Pillai**

AG has observed that interest amount of ₹ 3.94 lakhs due as on the date of advice of revenue recovery was not specifically mentioned in the RRC.

The present CTO has informed that the assessment records could not be traced out after earnest efforts and so the officer who is responsible for the short levy cannot be ascertained.

**5. CTO, Fourth Circle., Thrissur**  
**P. K. Johnson, Pattara Industries 1990-91 to 1992-93**

AG has observed that interest amount of ₹ 2.44 lakhs due as on the date of advice of revenue recovery was not specifically mentioned in the RRC.

The present CTO has reported that the original assessment is remanded for fresh disposal by the DC in *suo-moto* revision. The objection raised by the audit party on levy of interest is not sustainable in this case. Subsequently assessment orders for the years 1990-91 and 1992-93 were completed afresh on 11-8-2003 and the arrears were advised under RR with interest. Therefore no short levy exists now.

**6. First Circle, Tvp  
 Navarang Agencies**

AG has observed that interest amount of ₹ 1.92 lakhs due as on the date of advice of revenue recovery was not specifically mentioned in the RRC.

The assessment records are not traceable. The officers who worked for the period (1987 to 1995) were Sarvasree Selvarajan Nadar, V. Surendran, P. Babu, P. Soman, R. Sreedharan Pillai, P. Parameswaran Nair, K. Krishnan Pillai and Smt. P. Sudhadevi who were all retired from service before 2005.

**7. First Circle, Tvp  
 G. Sugathan**

AG has observed that interest amount of ₹ 0.96 lakhs due as on the date of advice of revenue recovery was not specifically mentioned in the RRC.

The assessment records are not traceable. The officers who worked for the period (1987 to 1995) were Sarvasree Selvarajan Nadar, V. Surendran, P. Babu, P. Soman, R. Sreedharan Pillai, P. Parameswaran Nair, K. Krishna Pillai and Smt. P. Sudhadevi who were all retired from service before 2005.

## **8. First Circle, Tvpm**

### **R. Gokhila**

AG has observed that interest amount of ₹ 0.48 lakhs due as on the date of advice of revenue recovery was not specifically mentioned in the RRC.

The assessment records are not traceable. The officers who worked for the period (1987 to 1995) were Sarvasree Selvarajan Nadar, V. Surendran, P. Babu, P. Soman, R. Sreedharan Pillai, P. Parameswaran Nair, K. Krishna Pillai and Smt. P. Sudhadevi who were all retired from service before 2005.

## **9. Second Circle, Kollam**

### **G. Venugopal, M/s. Kilikollur Wines, Kollam**

AG has observed that interest amount of ₹ 0.32 lakhs due as on the date of advice of revenue recovery was not specifically mentioned in the RRC.

The final assessment of the dealer for the year 1988-89 was modified by the STAT in its order No. TA87/04 dated: 17-12-2004. In the modified order interest was recomputed u/s 55(c) of the KGST Act and the balance demand intimated to the Tahsildar, Kollam on 19-1-2005. The interest due is ₹ 2,371 and the same was collected by the Tahsildar, Kollam. No interest dues outstanding at present against the dealer. So the audit observation does not exist.

In this para, (para 2.2.9 (i) and (ii) of the C&AG Report for the year ended 31-3-1998) the PAC has ordered to take disciplinary action against the officers concerned and realize the amount due to Government. On the 16 cases tabulated by AG [7 cases on para 2.2.9(i) and 9 cases on para 2.2.9(ii)], the short levy pointed out on 5 cases- ₹ 86.55 lakhs does not exist now out of ₹ 224.65 lakhs reported. Out of the 16 cases after earnest efforts the Department was able to trace out the assessment records relating to 7 cases only. It may kindly be noted that the details of the officers responsible for the revenue loss on whom disciplinary action has to be initiated cannot be identified.

### **Recommendation**

(Sl. No. 13, Para No. 38)

1.13 With regard to the collection of interest of ₹ 16.03 lakh omitted to be collected in four Revenue Recovery cases [para 2.2.9(iii)] the Committee observe that even after knowing the supervisory lapse, the Department did not bother to initiate any action. The Committee, therefore recommend that disciplinary action should be initiated against the delinquent officials for the lapses in not checking the non levy of interest and for the evident inaction.

### **Action Taken**

**Para 38 of the PAC Report is para 2.2.9 (iii) of the C&AG report for the year ended 31-3-1998**

1.14 The C&AG has reported that in 4 cases the assessing authority has not verified whether interest for belated remittance was also collected by RR authorities which was resulted in short levy of ₹ 16.03 lakhs.

1.15 Collection of interest was not verified. Short levy pointed out is ₹ 16.03 lakhs in 4 cases.

1.16 Even though the files were being distributed among officers in a circle on the basis of alphabets starting from A to Z, sometimes there were changes in the allocation of alphabets depending upon the situations and direction from higher authorities. Therefore even if the assessment records are traced out the name of officer who are responsible for delay in issuing demand notice within the period prescribed by the statute cannot be confirmed.

1.17 However the assessment records called for and verified on 31-12-2013 and 3-1-2014. Action taken report on the cases tabulated by C&AG is submitted as under:

**1. Special Circle-III, Ernakulam**

**M/s. Kerala Electrical and Allied Agencies**

The observation of AG is that interest of ₹ 10.19 lakhs was not recovered by the RR authorities while collecting the arrears advised for RR.

The dealer challenged the original order (on which AG has raised objection) before the 1st and 2nd appellate authorities. STAT Ekm vide order dated 31-3-2003, modified the appeal and based on this assessment completed on 2-2-2003. The balance tax dues were paid by the assessee under amnesty scheme. So the audit objection does not exist.

## 2. Second Circle, Tvm

### **K. Krishnan Nadar, S. K. Arrack & Co.**

The observation of AG is that interest of ₹ 4.87 lakhs was not recovered by the RR authorities while collecting the arrears advised for RR.

The present CTO has reported that the original assessment is remanded for fresh disposal by the DC in *suo-moto* revision. The objection raised by the audit party, non-levy of interest is not sustainable in this case. Subsequently assessment orders for the years 1990-91 and 1992-93 were completed afresh on 11-8-2003 and the arrears were advised under RR with interest. Therefore no short levy exists now.

## 3. CTO, Thiruvalla

### **M/s. Mathai Cyriac & Sons**

The observation of AG is that interest of ₹ 0.86 lakhs was not recovered by the RR authorities while collecting the arrears advised for RR.

The present CTO has reported that for the year 1993-94 considering the audit objection assessment revised in order dated 23-3-1999 and the assessee has made an excess remittance of ₹ 1,07,652 for 1993-94 and LAR file for 1996-97 has been closed by AG vide Lr. No. SRA (HQ)M/ST-I/16/Misc./2007-08/671 datd 26-3-2008.

## 4. CTO, Changanassery

### **Mary Mammen**

The observation of AG is that interest of ₹ 0.11 lakhs was not recovered by the RR authorities while collecting the arrears advised for RR.

The present CTO has informed that assessment records for the year is not traceable after earnest efforts and so the officer who is responsible for the irregularity cannot be located.

In this para, (para 2.2.9(iii) of the C&AG Report for the year ended 31-3-1998) the PAC has ordered to take disciplinary action against the officers concerned and realize the amount due to Government. On the 4 cases tabulated by AG, the short levy pointed out on 2 cases – ₹ 11.05 lakhs does not exist now out of ₹ 16.03 lakhs reported. After earnest efforts the department was able to trace out the assessment records relating to 3 cases. It may kindly be noted that the details of the officers responsible for the revenue loss on whom disciplinary action has to be initiated cannot be identified.

### **Further Recommendation**

(Para 32, 36 and 38)

1.18 The Committee deplored the lame excuses given by the department such as the records were not traceable, the delinquents retired from service etc. The Committee found that there was a deliberate attempt on the part of the officials to delay the implementation of the disciplinary action against the delinquents as recommended by PAC. The Committee observed that the disciplinary proceedings were purposefully delayed till the responsible officers retire from service. Therefore the Committee recommended that the concerned Secretary should submit a detailed reply regarding the measures which would be adopted by the department to prevent such occurrence in future. The Committee also wanted to be appraised of if in case of any such lapses at what level of hierarchy the responsibility could be fixed.

### **Action Taken**

(Para 32, 36 & 38)

1.19 Further recommendations of the Committee are noted for future guidance.

1.20 It is also informed that Government in Taxes Department along with National Informatics Centre, Delhi has developed a software viz. "Audit Online" to make the audit by the Accountant General and its follow up action by the department concerned as well as by the Government, in an online platform. In this online platform, the trail from audit enquiry stage to the C & AG report stage is visible at any point of time relating to a particular audit enquiry. This facility, when it becomes operational will wipe out the difficulty for tracing the old assessment records or for identifying the officer responsible as far as a particular audit objection is concerned.

1.21 It is also informed that the Commercial Taxes Department has issued circular No. 20/2015 (Annexure-II) by incorporating the recurring audit objection so that the assessing authorities can avoid such re-occurrences in future. Apart from this, Department is reviewing the LAR, Draft Para and PAC report cases in all review meetings so that the short levy pointed out by the Accountant General can be rectified/made good of at the earlier stages of audit objection. In the capacity building programmes of the Department, this item has been included as an important module.

1.22 Further, disciplinary actions were already initiated against 9 assessing authorities in 5 different cases included in the Draft Paras for the year 2014-15.

1.23 The Department is taking efforts to rectify the defects pointed out by the Accountant General as early as possible to avoid the local audit reports becoming draft para or part of C&AG report. Therefore the department is also examining the possibility of fixing the responsibility to the assessing authorities and their controlling officers for any lapse in follow up and rectification of audit objections, from the LAR stage itself.

#### **Further Recommendations on Para No. 32, 36 & 38**

1.24 The Committee observes that the reply furnished by the department is vague and directs to inform whether the Department had taken effective steps to implement the recommendation of the Committee. The Committee also insists strict compliance of the circular No. 20/2015 issued by the Commissioner of Commercial Taxes.

#### **Recommendation**

(Sl. No. 19, Para No. 49)

1.25 The Committee are of the view that it would be very effective if the Department issue a circular to all assessing officers as and when ambiguity in assessment is reported in any case, to avoid repetition of same mistakes in other circles and other offices. The Committee suggest that stern action should be taken against those who commit the mistakes even after the issuance of circular instructions.



### **Action Taken**

1.26 Stringent actions are being taken against the delinquent officers.

### **Further Recommendation**

1.27 The Committee noticed that even though the recommendation was to issue a circular to all assessing officers to avoid repetition of mistakes, the reply was not to the point and hence not satisfactory.

### **Action Taken**

1.28 The Commissioner of Commercial Taxes in the beginning of every financial year issues circular stating the salient feature of the Finance Bill for the respective years. This is for the proper guidance of the assessing officers about the changes effected in the clauses, sections, rate of tax, exemptions, concessions, revision of schedules, classification, clarifications etc. in respect of various enactment implemented by the Department.

1.29 In addition to this, for the non-repetition of irregularities and mistakes pointed out by Audit certain circulars are issued by the Commissioner of Commercial Taxes on and off. Circular No. 8/2002 dated 1-2-2020, 27-2-2020 dated 22-11-2002 are examples. Circular No. 6/2004 dated: 17-3-2004 regarding instructions for best judgement assessment is another one for the proper guidance of assessing officers. Above all, the Commissioner of Commercial Taxes and the district heads of the department issue several circular instructions and guidances on many issues to the assessing officers during their tertiary/monthly visits to the sub offices as well as in the conference and performance review meetings conducted on and off with a view to guide them to comply with the changes and amendments thereon to avoid occurrence of omissions, mistakes and errors. It is also informed that appropriate actions, against the irresponsible officers are taken on audit objection cases on the basis of its gravity.

### **Further Recommendation**

1.30 The Committee notes that reply has not mentioned anything about the disciplinary action taken against the responsible officers. Therefore, the Committee recommends that responsibility should be fixed on the delinquent officers and stringent action should be taken against them.

## CHAPTER II

RECOMMENDATIONS ON WHICH THE COMMITTEE DOES NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES FURNISHED BY THE GOVT.

**TAXES DEPARTMENT****Recommendation**

(Sl. No. 1, Para No. 6)

2.1 The Committee find that the Taxes Department is not paying adequate attention to see that the notes showing remedial measures taken or to be taken by Government on audit paragraphs contained in the Audit Reports are to be forwarded to the Committee on Public Accounts within the stipulated time. The Committee are constrained to take a serious note of the action of the Department and that any further breach of instructions with regard to the time limit fixed in submission of notes would meet with serious consequences in future.

**Action Taken**

2.2 The delay in furnishing Action Taken Statement is not intentional. A calender of action taken on the audit report for the year ended 31-3-1998 (on which the 20th report is based) is given below.

2.3 A copy of the Report of C&AG was received on 23-2-1999. On 4-3-1999 it was communicated to the Commissioner of Commercial Taxes and CLR with a request to furnish draft Action Taken Statement. CLR furnished draft statement of Action Taken on 25-9-1999, CCT furnished the draft SOAT paras 2.3.1-2.3.5, 2.4.1-2.4.5, 2.5.1-2.5.5, 2.6, 2.7.1-2.7.6, 2.8.1-2.8.3, 2.9.1-2.9.4, 2.10, 2.11, 2.12(i), 2.12(ii), 2.13(i), 2.13(ii), 2.14, 2.15(i), 2.15(ii) & 2.16-2.21 on 20-10-2000. 35 copies of the Statement of Action Taken on the above paras were sent to the Legislature on 4-11-2000. Commissioner of Commercial Taxes furnished draft Statement of Action Taken on paras 2.2.5, 2.2.6, 2.2.6(ii)a, 2.2.6(i) b, 2.2.6(ii)c, 2.2.7, 2.2.7(ii), 2.2.8, 2.2.9, 2.2.9(ii), 2.2.9(iii), 2.2.10, 2.2.11 & 2.2.12 on 7-11-2000. 35 copies of the Statement of Action Taken on paras 2.1 to 2.21 were forwarded to the Legislature on 9-11-2000.

2.4 From the above mentioned facts it may be seen that no purposeful delay was caused either by Government or the Board of Revenue in furnishing remedial measures taken on audit paras. It is also assured that the time limit prescribed by the Committee will be strictly adhered to in future.

#### **Comment on Para No. 6**

2.5 The Committee remarks that there was delay in furnishing SOAT by the Taxes Department and that no satisfactory explanation for the delay had been furnished. The Committee points out that there are many instances where the Department failed to give satisfactory explanation to the exact point in the observation of the Committee. The Committee views this tendency of the Department to evade and deviate from the observation of the Committee in giving replies seriously.

#### **Recommendation**

(Sl. No. 2, Para No. 7)

2.6 The Committee notice that the arrears of under-assessment of tax, non-levy of penalty etc. of Sales Tax are on the increase from year to year. According to the latest position substantial portion of the amount overdue under-assessment ₹ 17,539.18 lakh involved in 1603 cases detected by Audit during 1997-98 was pending clearance for want of final replies from the departments. The Committee also feel that the progress made in recovery of dues is not at all satisfactory. The Committee, therefore desire that Government may examine the position and take effective steps for clearing the audit objections.

#### **Action Taken**

2.7 The audit objections relating to the year 1997-98 have been rectified and report to that effect has been forwarded to the Accountant General. Special programme for audit clearance are being undertaken at District Level with the officers of the Accountant General and by this, much progress is being achieved. Audit Monitoring Committee Meetings convened by the Secretary (Taxes) are regularly held each month to review the progress of rectification of audit objections at Government level. Substantial progress has been achieved in the clearing of audit objections by this time.

**Recommendation**

(Sl. No. 3, Para No. 8)

2.8 The performance of Internal Audit Wing in the Sales Tax Department is thoroughly disappointing. The Committee are surprised to note that a proper and foolproof system does not exist in the Department for internal audit and stress the need for evolving a system of auditing in special circles and district offices quarterly or monthly prior to the audit of the Accountant General so as to avoid the recurrence of same irregularities pointed out by the audit in previous year. The poor performance of the Departmental audit was repeatedly criticised by erst-while Public Accounts Committees. In the circumstances, the Committee recommend that the Internal Audit System in Sales Tax Department, may be sufficiently strengthened with necessary staff if the present strength is not sufficient for the purpose.

**Action Taken**

2.9 In order to make the internal audit fruitful and result oriented the audit wing has been strengthened with three Deputy Commissioners (Audit and Inspection) and 6 Inspecting Assistant Commissioners (Audit) and 56 officers for audit works. The Commissioner is periodically reviewing the work of audit staff. Now, time limit has been fixed for the completion of assessments.

**Recommendation**

(Sl. No. 4, Para No. 29)

2.10 Considering the magnitude of assessment arrears, current cases pending and remanded cases of Sales Tax during the period from 1992-93 to 1997-98, the Committee believe that test audit could bring out only few cases. If results of the test audit could be taken as an indicator, the actual loss would have been much more higher. The inordinate delay in disposal of the cases are the regular practice existing in the Sales Tax Department. It is a matter of grave concern that the Senior Officers responsible for examining and verifying such cases and expediting action are lazy and indifferent. The Committee recommend to take immediate action to expedite the process of pending assessments based on a calendar of action for the speedy disposal of cases for safeguarding the revenue interest of the State.

### **Action Taken**

2.11 All assessments have to be completed within 4 years from the year to which it relates and assessment orders are to be communicated to the assessee within 6 months from the date of checking of the accounts. Periodical review of work of Sales Tax Officers is being conducted by the Commissioner and supervisory officers at District level and strict actions are taken against the erring assessing officers.

### **Recommendation**

(Sl. No. 5, Para No. 30)

2.12 The Committee notice that the over burdening of the staff in the Sales Tax Department contributes to the inordinate delay and pendency in settling the reassessment and disposal of remanded cases. The Committee recommend that work study should be conducted and that the staff pattern in the Department should be scientifically reorganised on the basis of the study. The Committee feel that the request of the Department for additional staff is genuine and that the delay on the part of the Government in granting the request of the Department is not justifiable.

### **Action Taken**

2.13 Priority is given to complete the old pending cases. Arrear clearance programmes are conducted continuously and this has reduced the pendency. The observation is noted for future guidance.

### **Recommendation**

(Sl. No. 8, Para No. 33)

2.14 The Committee understand that there was, heavy arrears of Sales Tax as on 31st March 1997 and that an amount of ₹ 64,934.08 lakh was to be realized which was pending due to various reasons, such as stay by Courts, Govt. Appellate authorities, revenue recovery process etc. Considering the magnitude of the blocking up of public money, the Committee believe that there would be no progress, in the realisation of arrears in the succeeding years. It is embarrassing to note that such huge arrears pending towards collection were held up at a time when

the Govt. was struggling hard to strengthen the exchequer by increasing revenue collection. Therefore, the Committee recommend that a time bound action plan should be enunciated to recover the huge arrears in Sales Tax collection. The Committee also desire to be intimated of the progress of recovery.

### **Action Taken**

2.15 Office-wise list as on April of the financial year is maintained and the figures tally with the opening balance. The arrears of ₹ 64,934.08 lakhs as on 31-3-1997 has been reduced to about 91.60 lakhs as on July 31-3-2002. Effective steps are also being taken to realise the amounts involved in stay and Revenue Recovery.

### **Recommendation**

**(Sl. No. 9, Para No. 34)**

2.16 It was also brought to the notice of the Committee that the opening balance of assessments does not tally with the closing balance for the previous years from 1991-92 to 1995-96. The Committee note with serious concern that the department is not maintaining the correct and dependable statistics regarding the assessments. The Committee recommend that the controlling officers should maintain correct and dependable statistics in the Taxes Department for ready reference.

### **Action Taken**

2.17 All registers as per the manual of Sales Tax Vol.III are maintained in all offices properly. Periodical inspection is being conducted to review the maintenance of all registers by the Supervisory officers.

### **Recommendation**

**(Sl. No. 10, Para No. 35)**

2.18 The Committee is surprised to note that the Taxes Department does not have the basic records of assessments such as DCB, Assessment Register, Cheque Register, Remission Register, Revenue Recovery Register etc. and the records of collection of Sales Tax were not maintained properly. The Committee record their displeasure over the non-maintenance of prescribed register in the Sales Tax

offices. The Committee observe that for achieving better performance in settling all issue relating to tax assessments and its collection and proper maintenance of the required registers is the bounden duty of the Department. In the absence of the required registers properly maintained, the Department can run only on imaginative and inaccurate figures. Therefore, the Committee urge that the proper maintenance of all registers should be made mandatory in all Sales Tax Offices.

#### **Action Taken**

2.19 All the registers are properly maintained at present.

#### **Recommendation**

(Sl. No. 12, Para No. 37)

2.20 The Committee desire to be intimated the present position regarding recovery of ₹ 6.48 lakh towards interest in respect of M/s. Paul Anand, Neyyattinkara [Para 2.2.9 (ii)] which was reported to have been ordered for revenue recovery in 1999.

#### **Action Taken**

2.21 M/s. Paul Anand was a dealer in Arrack during the assessment year 1991-93. The assessing officer has completed the assessment under section 17(3) of the KGST Act estimating the turnover at 2 times the Kisth amount of ₹ 11,23,601 and levying tax on the above turnover at the rate of 62.5%. The tax and surcharge of ₹ 14,04,500 and ₹ 1,12,360 was demanded. The assessee has paid ₹ 87,400 and balance amount ₹ 14,29,460 has been advised for Revenue Recovery. The Audit has pointed out that interest leviable from 12-4-1993 to 22-1-1996 for non-payment of tax which resulted in a short demand of ₹ 6,47,967. The same was also advised for Revenue Recovery. Aggrieved by the above original assessment order, the assessee filed appeal before the Appellate Assistant Commissioner. While deciding the appeal, the Appellate Assistant Commissioner, Thiruvananthapuram as per STA No. 946 A/02 dated 30-3-2003 partly allowed. Not satisfied with the above orders the assessee filed appeal before the Hon'ble Sales Tax Appellate Tribunal, Thiruvananthapuram. While deciding the appeal, the Sales Tax Appellate Tribunal Thiruvananthapuram in its order No. TA/366/03 dated 28-12-2004 has set aside the assessment and remitted back to the assessing officer for denovo disposal.

**Recommendation**

(Sl. No. 14, Para No. 39)

2.22 The Committee understand that there is no follow up action in the Revenue Recovery cases which resulted in accumulation of huge arrears and in getting the stay orders vacated in the recovery cases. The Committee urge that stringent measures should be evolved to ensure proper follow up of Revenue Recovery cases for the speedy realisation of huge arrears blocked up through Revenue Recovery Proceedings.

**Action Taken**

2.23 This is being done and this item of work is reviewed at district level and state level by supervisory officers.

**Recommendation**

(Sl. No. 15, Para No. 40)

2.24 The Committee find that the present system of reconciliation of remittances is not functioning properly in any of the offices and the mistakes could not be detected till it was pointed out by audit. The Committee recommend that the Controlling Officers in each Sales Tax Office should invariably follow the guidelines in Kerala Financial Code regarding reconciliation to ensure proper accounts of remittances.

**Action Taken**

2.25 The recommendations are being implemented and audit clearance programmes are conducted.

**Recommendation**

(Sl. No. 16, Para No. 41)

2.26 The Committee suggest that there should be a fool-proof system in the Sales Tax Department to review and evaluate the audit made by the Accountant General and to take immediate remedial action on the audit objections.

**Action Taken**

2.27 Noted for future guidance.



### **Recommendation**

(Sl. No. 17, Para No. 44)

2.28 The Committee is dissatisfied with the manner in which assessments were made in the Department. The Committee find serious lapses on the part of the assessing officers who levied tax at incorrect rates resulting in short levy of tax. The Committee opine that to curb the recurring instances of applying incorrect rate, simple punishments such as warning, adverse entry in the confidential report etc. are not appreciable. The Committee recommend that stringent action should be initiated against the officers who failed to levy tax at the prevailing rate.

### **Action Taken**

#### **M/s. Forbes Gokhala Ltd., Ernakulam 95-96/STO IV Circle, Ernakulam**

The original (irregular) assessment was completed by Smt. D. Leelamma, Sales Tax Officer. She was issued with a charge memo. The explanation of the officer was that the application of incorrect rate of tax was purely due to misinterpretation of SRO 429/95. The Officer mistook the term "Spectacles" in SRO 429/95 to include "Lenses" and levied tax at the rate of 4% considering the fact that the mistake was due to the error in the interpretation of SRO 429/95 and that the loss of revenue was made good by revising the assessment, a lenient view was taken and she was let off with a warning vide order No. E5-213972/98/TX. Dated 17-8-1998.

#### **The Kerala State Co-operative Rubber Marketing Federation, Ernakulam**

Based on the audit, the assessment was revised on 18-10-1997 creating an additional demand of ₹ 82,560. The additional demand of ₹ 82,560 was collected vide chalan No. 24608 dated 26-7-1998.

The above original (irregular) assessment was completed by Shri Thomas Alex, Assistant Commissioner. He was issued a charge memo and obtained his explanation. Considering the facts that, the officer has admitted the mistake and the mistake had occurred due to oversight he was awarded a "Censure" vide order No.E5-26200/98/TX. Dated 29-1-1999.

**M/s. Indu Oil Mills, Mattancherry-Assistant Commissioner (Spl.) Mattancherry**

Based on the audit, the assessment for the year 92-93 was revised on 18-8-1997 and the turnover of ₹ 51,57,790 was assessed to tax at the correct rate of 5%. Balance tax and surcharge due as per the revised assessment order was ₹ 2,05,000. This was collected as under.

Ch. A7/09-12-1997	₹ 75,000
Ch.A2/05-06-1998	₹ 1,30,000
	-----
<b>Total</b>	<b>₹ 2,05,000</b>
	=====

The above original (irregular) assessment was completed by Shri P. Sankaran Nair, Assistant Commissioner. He was charge-sheeted and disciplinary action was finalised by awarding him a punishment of barring one increment with cumulative effect, vide order No. E5/26201/98/TD.

Shri P. Sankaran Nair, Assistant Commissioner filed appeal against the order of the Commissioner before the Government. The Government vide order No. G.O. (Rt.) No. 573/2000/TD. Dated 9-8-2000 reduced the penalty imposed to that of "Censure" under rule 31 (2) (e) (i). KCS (CC&A) Rules, 1960.

**Smt. D. Kanakamani, Sree Senthil Stores, Palakkad [Assistant Commissioner (Spl.)], Palakkad**

Based on the audit, the assessment for 1994-95 was revised under section 19 of the Act creating an additional demand of ₹ 67,857 on 1-3-1999 and the same was collected vide chalan No. 21 dated 3-5-1999.

The above original (irregular) assessment was completed by Shri H. Ahamed, Assistant Commissioner. Proposal for initiating action for major penalty against the delinquent officer is being examined by Government.

**Kerala Trading Co., Market Road, Palakkad (92-93) Sales Tax Officer, 1st Circle, Palakkad**

The final assessment in respect of the above dealer for the year 1992-93 was originally completed on 25-2-1997 as ex parte assessment. Aggrieved by the order, the assessee filed appeal before the Appellate Assistant Commissioner, Palakkad.

The Appellate Assistant Commissioner, Palakkad vide order No. STA-969/97 dated 16-2-1998 set aside and remanded the assessment for fresh disposal. Accordingly, fresh assessment was completed on 20-8-1998 considering the audit objection also. As per the above orders, the turnover of atta, maida etc. was fixed at ₹ 1,54,410 and assessed to tax @ 5%. As per the revised assessment order the dealer has to pay a balance of ₹ 2,209 out of this, they have paid ₹ 1,907 as per Chalan No. 2621 dated 14-1-1998 (₹ 1490 as tax and ₹ 417 as surcharge). The balance of ₹ 302 (tax ₹ 292 and surcharge of ₹ 10) has been adjusted from the excess payment for 1989-90. Thus there is no arrears due from the assessee for the said period.

2.29 The above original (irregular) assessment was completed by Shri C. Ummer, Sales Tax Officer. He has voluntarily retired from service due to ill-health. Hence further action against him was dropped.

#### **Recommendation**

(Sl. No. 18, Para No. 48)

2.30 Though turnover escaping income has become a common error often committed by the assessing officers, the Taxes Department is least bothered about the revenue loss in this regard. The need for taking deterrent action against the delinquent officials has not been rightly understood by the Department as a result of which same kind of errors are being repeated time and again. In many cases instead of initiating action to realise the loss from the responsible officers, the Department merely call for explanation and close the chapter even when the assessing officer is found guilty. The Committee recommend that efforts should be made for the speedy disposal of cases and to recover the money due to Government.

#### **Action Taken**

2.31 Deterrent punishments are being awarded to those who are responsible for loss of revenue to Government.

#### **Recommendation**

(Sl. No. 20, Para No. 50)

2.32 The Committee also recommend that it should be intimated about the present stage of second appeal filed by the State in respect of M/s. K. R. Stanley, Ernakulam and whether the amount has been recovered.

### **Action Taken**

2.33 The Honourable Sales Tax Appellate Tribunal Additional Bench, Ernakulam while deciding the appeal in TA/177 & 178/99 dated 28-6-2001 held that it is not justifiable to assess the purchase turnover of coconut shell under section 5A of the KGST Act and confirmed the finding of the first appellate authority (AAC, Ernakulam) and also dismissed the appeal filed by the State. In view of the Appellate decision, recovery of short levy does not arise. Audit objection in this case was received in September 1997. After examining the case the assessing authority revised the assessment during March 1999. The assessee filed appeal against the revised assessment order. The Appellate Assistant Commissioner allowed the appeal on 13-9-1998. The State filed appeal against the Appellate Assistant Commissioner's order and the same has been dismissed on 28-6-2001. During these processes a lot of administrative delay occurs owing to various reasons. Government have taken many measures to avoid delay in finalizing such cases in future.

### **Recommendation**

(Sl. No. 21, Para No. 51)

2.34 The Committee desire that the present position and recovery in respect of M/s. N P K Jewellers, Perumbavoor which were reported to be advised for revenue recovery may be intimated to the Committee.

### **Action Taken**

2.35 Since the RR authorities could not collect the amounts, action under section 23(2)(b) of the Act was initiated against the defaulter for collecting the amount. But the same could not be collected as the defaulter left the state years back and the whereabouts of the defaulter are not known. There is also no property in the name of the defaulter in this state to be proceeded against.

### **Recommendation**

(Sl. No. 22, Para No. 55)

2.36 The Committee suggest that strict measures should be initiated for the early disposal of the pending cases in various courts relating to sales tax.

### Action Taken

2.37 Now, from December to March every year a special drive is conducted in consultation with the Advocate General and Deputy Commissioner (Law) and all Deputy Commissioners take list of cases pending in various courts and make sure that the Statement of Facts are filed in all such cases and entrust the cases to Government pleaders for conducting the case.

### Recommendation

(Sl. No. 23, Para No. 56)

2.38 The Committee recommend that it should be intimated about the present stage of stay order of the tribunal in respect of M/s. Brooke Bond India Limited, Kochi and to expedite action to realise the short levy of turnover tax at the earliest.

### Action Taken

2.39 Based on the audit, the assessment 1992-93 was revised on 14-10-1997 and the amount was advised for RR. Against the revised order, the assessee filed appeal and the Deputy Commissioner (Appeals) stayed collection of balance amount on condition that the assessee should pay ₹ 10 lakhs towards tax and furnish security for the balance amount. The assessee fulfilled the condition and paid ₹ 10 lakhs vide chalan No. 424 dated 9-6-1998. Subsequently the appeal was disposed of by the Deputy Commissioner (Appeals) on 15-5-1999 and the assessment was modified on 18-8-2000. As per the revised order dated 18-8-2000, balance tax and Surcharge were ₹ 35,36,699 and ₹ 3,18,077 respectively. The entire turnover tax for ₹ 6,21,510 was paid by the assessee. Not satisfied with the modification ordered by the Deputy Commissioner (Appeals), the assessee filed second appeal before the STAT, Ernakulam. While deciding the appeal, the STAT, Ernakulam on 28-10-2000 allowed the contentions of the assessee and accordingly modified the assessment. The assessment was revised on 12-3-2004. While modifying the assessment, total demand of tax, surcharge and turnover tax demanded were ₹ 1,43,80,440, ₹ 11,50,435 and ₹ 6,21,510 respectively. Out of this, the assessee has paid ₹ 1,56,32,440, ₹ 11,62,160 and ₹ 10,08,595 respectively. So, an amount of ₹ 12,52,000, ₹ 11,725 and ₹ 3,87,085 were excess payments towards Sales Tax, Surcharge and Turnover Tax respectively. At present no dues are outstanding against the assessee. Against the Tribunal order, the Department has filed TRC before the Honourable High Court of Kerala. The TRC is still pending disposal.

2.40. The original irregular assessment was completed by Smt. Emily Andrews, Assistant Commissioner. The disciplinary action initiated against her has been finalized by awarding a penalty of "Censure" vide G.O. Rt. No. 8/2001/TD. Dated 4-1-2001.

### **Recommendation**

(Sl. No. 24, Para No. 59)

2.41 With regard to the assessment relating to M/s. St. Vincent Industries, Kozhikode, the Committee maintain that there was laxity and inaction on the part of superior officers in examining the statements contained in the returns. The Committee desire to be informed of the details of the action taken against the officers concerned for lapses occurred in computation and whether the amount of short levy is recovered from M/s. St. Vincent Industries.

### **Action Taken**

2.42 Based on the audit, the assessment for 1986-87 to 1988-89 were revised. Aggrieved by the orders, the assessee filed appeal before the appellate Assistant Commissioner, Kozhikode. The Appellate Assistant Commissioner, Kozhikode vide order No. STA 194/97, 195/97, 196/97, 650, 651, 652 and 653/97 dated 5-2-1997 set aside the revised assessment and remanded the case for fresh disposal. Based on the appellate order, re-assessment were completed granting tax exemption under the notification in SRO/342/63.

### **Further Recommendation**

2.43 The Committee observed that the details of action taken against the officers who had done the assessment relating to M/s. St. Vincent Industries, Kozhikode was not furnished in the Statement of action taken. The Committee desired to get the above details.

### **Action Taken**

2.44 The original assessment in respect of St. Vincent Industries, Kozhikode was completed on 8-9-1989 by giving exemption of ₹ 40,12,869.78 as per SRO 342/63. Finding this as irregular and not improper Deputy Commissioner, Kozhikode cancelled this assessment. The assessment was revised according to the

orders of Deputy Commissioner by fixing total and taxable turnover ₹ 42,49,135.48 and ₹ 28,91,390.00 by disallowing the exemption. Against this the assessee went in appeal before the Appellate Assistant Commissioner, Kozhikode and the Appellate Assistant Commissioner vide order No. STA. 194/97, 195, 193, 650, 651, 652,653/97 dated 28-8-1997 has remanded the case for fresh disposal with the direction to see whether there are any other expenses which are not charitable and which comes outside the observation of the Hon'ble Tribunal.

2.45 In para 3 of page 6 of the above order of the Appellate Assistant Commissioner quoted the decision of the Tribunal in T.A. No. 264 to 266/69 dated 19-7-1997 in the case of appellate held that the nature of the activities of the appellant institution were charitable and the very same order of the Tribunal had found that true for the purpose of exemption and held that the expression charitable purpose should be construed liberally. The Tribunal also held that the expenses by the appellant Co. are closely connected with para 3 of the memorandum of Association and appellant are entitled for exemption. Also in para 5 of page 6 of the appellate order it is stated that the Authorised Representative has contended that they were ready to place all he evidence before the assessing authority to show that the profit were utilized for charitable purposes as in the previous years, where the Hon'ble Tribunal found that the appellant had utilized the profit for charitable purpose.

2.46 The dealer produced the evidence before the assessing authority on 20-1-2000 only and the assessing authority verified the documents and evidences on the same day and revised assessment for the year was completed on 11-2-2000 in the light of the appellate order granting exemption of ₹ 40,12,869.78 as per SRO 342/63 by fixing a total and taxable turnover of ₹ 42,49,135.48 and ₹ 2,36,270.

A copy of the appellate order and statement of the dealer for the year 1986-87 is attached (Annexure). But that for 1987-88 and 1988-89 is not available in the assessment records and at this long distance of time it is not feasible to trace out. As the assessing authority completed the assessment honestly and faithfully in the capacity of quasi judicial nature, the audit objection may be dropped.

### **Recommendation**

(Sl. No. 25, Para No. 63)

2.47 The Committee desire to be furnished with the present stage of revenue recovery in respect of M/s. Spot Enterprises, Emakulam [Para 2.9 (iv)].

**Action Taken**

2.48 The Revenue Recovery Certificate issued has been returned stating the addressee could not be located. "The amount has not been collected."

**Recommendation**

(Sl. No. 26, Para No. 67)

2.49 The Committee recommend that the present position and recovery in respect of M/s. Kadambukattil Agencies and M/s. Thalakkadan Agencies, Perumbavoor which were reported to be partly collected may be intimated to the Committee.

**Action Taken**

## 2.50 Collection details

## 1. M/s. Kadambukattil Enterprises

Year	ST	SC	Total
1991-92	46,017	4,680	50,697
1992-93	36,071	2,886	38,957
Total			89,654

Chalan No. and date		Amount
841	9-3-2001	44,837
6621	16-5-2002	22,414
4102	31-10-2003	12,674
41103	31-10-2003	9,739
Total		89,654



## 1993-94

Chalan No.	Date	Amount
1207	18-9-1998	17,631
1413	14-8-1998	70,526
1363	16-10-1998	17,631
2045	20-11-1998	17,631
734	8-1-1999	5,878
4548	31-3-2003	47,017
<b>Total</b>		<b>1,76,314</b>

## 1994-95

1414	14-8-1998	79,130
12016	18-9-1998	19,783
1362	16-10-1998	19,783
2045	20-11-1998	19,783
734	8-1-1999	6,593
4549	31-3-2002	52,753
<b>Total</b>		<b>1,97,825</b>

## 2. M/s. Thalakaadan Agencies (1994-95)

Chalan No.	Date	Amount
2120	22-7-1998	25000
433	4-3-1999	50000
424	4-3-1999	68,300
242	5-6-2002	94,510 (ST)
		23,781 (SC)
		7,099 (ST)
<b>Total</b>		<b>2,68,690</b>

### **Recommendation**

(Sl. No. 27, Para No. 69)

2.51 The Committee notice that the failure to forfeit the excess collection by the assessing officer when the assessment was revised in respect of M/s. Indian Telephone Industries Limited and M/s. Tamil Nadu Cement Corporation, Palakkad, cannot be regarded as cases of omission but are cases of sheer negligence. The Committee observe that there is criminal lapse on the part of the assessing officer. The Committee recommend that serious action should be taken against the assessing officer and that the result thereof shall be intimated to the Committee.

### **Action Taken**

#### **1. Indian Telephone Industries, Palakkad**

Based on the audit, the assessment for 86-87 was revised rectifying the mistake crept in the order No. 31015536/86-97 dated 19-9-1998. As per the revised order, there is excess payment of CST of ₹ 5,97,107. The excess was adjusted for the year 1989-90.

It is clear that there was no collection of tax of ₹ 13,38,600 as pointed by the Audit. The actual collection is ₹ 11,86,180.57. Hence there is no case to proceed further.

#### **2. Tamil Nadu Cement Corporation, Palakkad**

The assessing authority while checking the accounts, tax collection is mistakenly noted as ₹3,03,44,360.48 instead of the actual tax collection of ₹ 2,93,53,237.92. The assessing authority mistakenly included surcharge paid by the assessee of ₹ 9,91,122.56 towards tax collection. This was mistake. So, there is no excess collection to be forfeited to the Government.

### **Recommendation**

(Sl. No. 28, Para No. 71)

2.52 The Committee urge that the details of disciplinary action, if any, taken against the officers for incorrect or double accounting of remittances mentioned in para 2.13 shall be intimated to the Committee.

### **Action Taken**

#### **1. M/s. Iswards & Co. Mattancherry**

In this case, disciplinary action against Shri P. P. Easikutty was finalized by imposing a punishment of barring of 2 increments for one year without cumulative effect as per order No. E6/20695/98 dated 16-2-2001 of the Commissioner. Disciplinary action initiated against Smt. I. E. Annie Thressia has been completed by imposing a punishment of barring of increment for one year without cumulative effect as per order No. E6/20595/98 dated 16-12-2001 of the Commissioner.

#### **2. M/s. Travancore-Cochin Chemicals, Ernakulam**

In this case, disciplinary action initiated against the delinquent officers Smt. R. Sarasamma and Shri T. V. Chandrababu were finalized by imposing a penalty of barring of two increments without cumulative effect as per order No. E5/26203/98/TX. Dated 5-2-1999 of the Commissioner.

### **Recommendation**

(Sl. No. 29, Para No. 73)

2.53 The Assessing Officers who inadvertently cause non levy of surcharge shall be taken to task and suitably punished. The Committee recommend that stringent action should be initiated against the officers who failed to levy surcharge of ₹ 94,637.

### **Action Taken**

2.54 The officer responsible in this case is Shri P. Sankaran Nair, the then Assistant Commissioner, Special Circle, Mattancherry. The disciplinary action initiated against him has been completed vide order No. G.O. (Rt.) No. 56/2001/TD. Dated 27-1-2001 by awarding him a punishment of withholding of one increment without cumulative effect in the existing scale of pay.

### **Recommendation**

(Sl. No. 30, Para No. 83)

2.55 The Committee desire to be informed of the details of action taken against the officers concerned for lapses occurred in computation. The Committee would like to be intimated about the present stage of the remanded assessment.

**Action Taken**

2.56 The final assessment of the above assessee for the year 1991-92 has been remanded by the Deputy Commissioner, Kottayam vide order No. D12-4088/99 dated 28-7-2000 for fresh disposal after obtaining the appellate order from Customs, Excise and Gold (Central) Appellate Tribunal, Madras. The assessment is still pending for want of the order of the Central Excise Appellate Tribunal, Madras.

Thiruvananthapuram,  
16th March, 2022.

SUNNY JOSEPH,  
*Chairman,*  
*Committee on Public Accounts.*

## APPENDIX

**Summary of Main Conclusions/Recommendations**

Sl. No	Para No.	Department Concerned	Conclusions / Recommendations
1	1.4	Taxes	The Committee directs the Department to apprise it of the details regarding the present status of the cases, number of cases pending in the courts, number of cases stayed by the court and the steps taken to settle the other cases.
2	1.24	"	The Committee observes that the reply furnished by the department is vague and directs to inform whether the Department had taken effective steps to implement the recommendation of the Committee. The Committee also insists strict compliance of the circular No. 20/2015 issued by the Commissioner of Commercial Taxes
3	1.30	"	The Committee notes that reply has not mentioned anything about the disciplinary action taken against the responsible officers. Therefore, the Committee recommends that responsibility should be fixed on the delinquent officers and stringent action should be taken against them.

13  
E  
Signature:

ADDL. SALES-TAX OFFICER, 1ST CIRCLE, Kozhikode.  
Present: - SRI. P. SREVALSAMINI, S.T.F.  
28.7.1997.

S.No. 194/97, 195, 193, 650, 651, 652, 653/97

5.2.1997 & 22.4.1986

Addl. Sales-tax -I, Kozhikode.  
1986-87, 87-88 & 88-89, 85-88 CST, 87-88 (88-89) CST, 90-91

M/s. St. Vincent Industries.

Rs. 28,91,390/-; 31,58,540/-; 29,59,120/-

Rs. 12,57,744/-; 10,12,662/-; 19,85,564/-

Rs. 29,16,970/-

Rs. 3,97,315/-; Rs. 20,482/-; 2,47,463/-; Rs. 19,542/-; Rs. 88,853/-  
1,35,774/-; Rs. 2,01,258/-,  
29,16,970/-; Rs. 2,91,167/-

28.7.1997

SRI. P. T. SREVALSAMINI, S.T.F.

The appellant herein is a registered dealer on the rolls of the Sales-tax Officer, 1st Circle, Kozhikode. The firm was finally assessed for the years 1986-87, 87-88 and 88-89 giving exemption of their turnover in the light of the SRO 342 of 63. The firm was finally assessed under CST also for the assessment years 1986-87 to 1988-89 and also for 90-91 giving exemption on the entire inter-state sales turnover as per SRO 505 of 67. Subsequent verification of the assessment records it was understood that the firm had utilized the profit received on sales of its products other than for charitable purposes which is against the provisions laid down in SRO 342 of 63 and also SRO 105 of 67. So the assessing authority found that the firm was not eligible for exemption as contemplated in the notification. Hence all the assessments under for the 3 years under CST and CST Act and also in the CST assessment for 1990-91 were reopened and revised by the Addl. Sales-tax Officer-I, 1st Circle, Kozhikode. It is against these revised assessments that the appellant has now come up in appeal.

The appellant has disputed the above orders when the exemption from sales-tax granted to the appellants by order under the findings of the Hon'ble Appellate Tribunal, Kerala, Income-tax and Sales-tax, Kozhikode in TA 264 to 266 dated 19.7.1970, were withdrawn by the assessing officer in the re-assessment made for the above years.

In response to this office notice Sri.P.T. Aravindan, Sales-tax Practitioner appeared for and on behalf of the appellant and was heard. The authorized representative has elaborated all the contentions raised in the grounds of appeal.

The main grounds are the following:

1. The assessing officer has not specifically pointed out with evidences supported with facts and figures that the appellant institution failed to follow the conditions laid down in the notification No. 542/63 and the assessing officer alleges that the profit and loss account of the appellant discloses that the appellant has utilized the profit for education, charitable and religious purposes as well.

The appellant humbly submit that the assessing officer has failed to appreciate the profit and loss appropriation account and the portion of the account i.e., "contribution to religious, charity and educational institutions" as shown in the profit and loss "appropriation" account which are to expain the utilization of profit within the meaning of "Charitable purposes". The allegation of the assessing officer that the appellant has failed to follow the condition laid down in the notification No. 542/63 has no basis.

2. The assessing officer has passed the assessment order on re-assessing the appellant by disallowing the claim of exemption for the previous years i.e., 66-67 and 67-68 and it may be noted that the officer has disallowed the claim of exemption in the re-assessment by following the order of the Deputy Commissioner Ref- No. MS-1448/92 dt. 2.9.93. The said order of the Deputy Commissioner was based on the order of the Hon'ble High Court of Kerala in the case of Central Book Stall Vs. State of Kerala as reported in 7- SFC 89. But the said order of the Hon'ble High Court of Kerala was set aside by the Hon'ble Supreme Court in the appeal of Central Book Stall as reported in (1994) 2 AIR 290 (SC).

Ms. 650:2551/652, 022/31

It is argued that they are entitled for

In the Arrol Book Stall case the Hon'ble High Court has held that though the burden was on the appellant to establish that the income derived by the books during the assessment years was utilised for that year itself for the charitable purpose. The appellant did not discharge that burden and that therefore, the appellant was not entitled to the exemption. Actually the order of the Tribunal giving exemption was set aside by the Hon'ble High Court.

Before the Supreme Court the contention was that the High Court was in error in its conclusion that the appellant has to prove that it had utilised the income derived for charitable purpose in the respective years themselves. It was also contended before the Supreme Court that it was not practicable to establish that the income derived by the sale of the books was utilised for the charitable purpose during the year in which it was earned itself. It has also contended that if the income derived had been set apart for utilisation for charitable purpose the appellant would be entitled to the exemption. The questions to be decided were (1) whether the appellant is required to prove that the income derived from the sale of the books was utilised for charitable purpose and secondly whether the amount should be utilised during that assessment year alone and the appellant would be entitled to set apart the income for utilisation for charitable purpose before the assessment year is completed. The Court observed that the object of the notification is to exempt only that portion of the profits derived by sale of goods when the same has solely been utilised for charitable purpose. The exemption is relatable only to the utilisation of profits derived by sale of the specified goods for charitable purpose. In other words, only on proof that so much of the profits derived from the sale of specified goods has been solely utilised for charitable purpose during the relevant year or set apart for that purpose and utilised before the assessment is made by the Sales-tax Officer gets exempted. On the appellant's behalf to prove the same,



turnover is exigible to sales-tax in the above case. setting aside the order of the High Court the Supreme Court gave one more opportunity to the appellant to prove that the income derived during the relevant years has been wholly utilised for charitable purpose. Thereafter the case was remanded to the Sales-tax Officer to assess afresh, in the light of the judgment subjected to appellants placing the necessary evidences of utilisation of the profits derived during the relevant years thereof of the goods specified in the schedule of the notification solely for charitable purpose.

In these cases the Sales-tax Officer has stated that the appellant has failed to follow the conditions laid down in the notification. It is further observed by the Sales Tax Officer that the appellant had utilised profits for educational charity and religious purposes as well. So he concluded that the appellant had utilised the profits other than for charitable purposes.

In IA 264 to 266 of 69 dated 19.7.1970 the Hon'ble Appellate Tribunal in the case of the appellant themselves had held that the nature of the activities of the appellant institution were as charitable and the very same order the Tribunal has found that for the purpose of exemption the expression charitable purpose should be construed liberally. These findings of the Hon'ble Appellate Tribunal were not challenged by the Department also. The Tribunal has also held that the expenses by the appellant-company are clearly connected with para 3 of the memorandum of assessment and the appellants are entitled for exemption.

In the revised order the assessing authority has not pointed out any change of circumstances warranting the disallowance of claim of exemption under SRG 342 of 63 to the appellants.

The authorized representative has contended before me that they are ready to place all the evidences before the assessing authority once again in order to show that profits were utilised only for charitable purpose as in previous years where the appellate Tribunal had found that the appellant had utilised the profits only for charitable purpose.

105, 198, 680, 681, 652 653/97

In light of the above circumstance it is felt that assessments should once again go back to the assessing authority for fresh disposal. The assessing authority will analyze and see whether there are any expenses which are non-deductible and which come in the observations of the Hon'ble Appellate Tribunal. For these purposes, all the assessments are set aside and referred to the assessing authority for fresh disposal according to law.

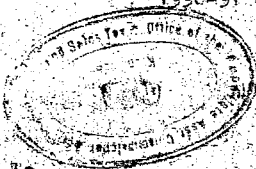
Results: 1986-87 CIT & COT

1987-88 CIT & COT

1988-89 CIT & COT

1990-91 CIT

REMANDED.



APPELLATE TRIBUNAL  
COIMBATORE.

To

The appellant thro' Rep.

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