

## **CHAPTER III      PREPAREDNESS AND TRANSITIONAL PROCESS**

### **3.1 Preparation of VAT Act/Rules, Vetting of the Act and Rules by the Government of India and approval of the Legislature**

The department completed drafting of KVAT bill in association with the Centre for Taxation Studies<sup>3</sup> (CTS). The draft KVAT Bill was then sent to the Government of India for vetting on 27 December 2002. The Legislature passed the KVAT Bill on 27 February 2003 and it got the assent of the President on 10 December 2004. The Government notified the Act on 27 December 2004 and published the KVAT Rules on 31 March 2005 and VAT was implemented in Kerala from 1 April 2005.

### **3.2 Creation of awareness among the stake holders**

The CTS conducted three state level conferences for discussion of draft VAT Act during 2002-03 and 85 one-day tax payers awareness programme/seminar on VAT in all districts in association with the trading/business organisations during 2004-05. A 16 page booklet on VAT was also published through the Public Relations Department and salient features of the VAT system was advertised through electronic and print media. The department had also established the facility of a 24 hour toll free telephone service to clarify issues in connection with VAT. The Government constituted following committees having representation from major trade associations to sort out issues of implementation of VAT, 1) State Level Consultative Committee (SLCC) with Finance Minister as the chairman, convened once in six months, 2) Executive committee of SLCC which would meet once in two months, 3) District Advisory Committee under the chairmanship of DCs which meet on second Wednesday of every month.

### **3.3 Analysis of staff requirement and Re-organisation of the Taxation Department**

The Taxes Department retained all the existing five wings<sup>4</sup> during re-organisation also. However, they deployed more ACs and CTOs for audit assessment and during the first two years they entrusted the duty of completion of the pending KGST assessments to 105 out of 327 CTOs of assessment wing. Under KVAT Act, DC (Appeals) is the first appellate authority whereas it was Appellate Assistant Commissioner under the

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<sup>3</sup> An autonomous institution established in 1992 by the Government of Kerala to promote and undertake research, training, consultancy and publication in the field of public finance, taxation law, management and accounting.

<sup>4</sup> Appellate Wing, Assessment Wing, Audit Wing, Intelligence Wing and Legal Wing.

KGST Act. The Department reduced their number from 16 to 8. Despite our specific request, the department did not furnish the wing-wise staff position consequent to recent re-organisation of the audit assessment wing.

### **3.4 Computerisation of the Taxation Department and the check posts and their interlinking**

The Department had completed computerisation and wide area network (WAN) networking of all circles by 2006. However, the details of electronically filed returns for 2007-08 onwards only are available in the system. The Department also informed us that it was a Government policy to computerise only A & B class<sup>5</sup> check posts. The Department completed computerisation and networking of 14 out of 81 check posts (six A class, five B class, 32 C class and 38 temporary check posts) by March 2009. From January 2009, TIN dealers have to mandatorily e-file the returns. However, we feel that e-returns can be effectively cross verified with the information available in the check posts only if all the remaining check posts are brought under WAN.

The Commercial Taxes Department has provided us with a dedicated username and password to have access to the computerised database for audit scrutiny. We are thankful to the department for giving us the access to its database.

We observed the following deficiencies in the software 'Kerala VAT information system' while attempting to retrieve certain data from the database.

- Searching dealers by name did not yield result in some of the cases. This was mainly due to granting of registration either in the name of the dealer or in the name of the business concern.
- Software did not have any provision to generate commodity wise list of major dealers.
- Field used by the software for crosschecking of purchase and sale is invoice number. Addition of some letters as codes by some purchasers in invoice number makes the comparison difficult.
- Software did not have an audit module.

Government stated that the department completed WAN networking of offices, that number of check posts running offline is 60 and that they had issued necessary instruction to IT Management Cell to consider suggestions put forth by us.

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<sup>5</sup> Check posts were classified as A, B and C based on the number of vehicles passing through these and revenue collected.

**We recommend that, besides the points mentioned above, the department may also consider the following.**

While verifying enclosures such as purchase list, sale list etc., of periodical return, current status of the dealer, i.e., active or cancelled or unregistered, gets displayed in a column beside the TIN. Since status of the dealer is the most relevant information while admitting input tax credit (ITC) claim, another column in the return for displaying date of registration, cancellation etc., would be useful.

### **3.5 Creation of manuals and training of the staff**

The CCT by an order on 31 August 2004 constituted six committees for preparatory work on introduction of the VAT. This included a Committee on Manual, Registration and Forms. However, we found that the Department have not prepared a Manual on VAT so far (April 2010) and consequently, the CTOs are not maintaining any records other than those related to creation of additional demand and collection of tax.

The department alongwith the CTS conducted various programmes on VAT awareness from 2001-02 onwards, which included four state level seminars and 30 awareness programmes on VAT during 2001-02. They also conducted 60 such programmes in association with various trade/manufacturing associations during 2002-03.

The department conducted training on general principles and issues on VAT for the officials, in CTS during 2001-02 and in-depth presentation and discussion on draft bill and rules and procedures of registration, acceptance of return, audit assessments etc., during 2002-03. The CTS had given VAT related training to the officials of the rank of CTOs and above during that year. They conducted VAT statute course for the CTOs and additional CTOs during 2004-05 and KVAT introduced statutory forms during 2005-06. The department had also arranged for separate induction courses for directly recruited and newly promoted CTOs. Consequent to introduction of the KVAT software (KVATIS), the department imparted computer training on the software to its officers during 2006-07 and 2007-08.

**We recommend that the department may bring out a comprehensive manual on VAT specifying the procedures for administration of KVAT Act and Rules made thereunder and prescribing registers to be maintained in each wing of the department.**

### **3.6 Completion of KGST/CST assessments**

The Kerala Finance Act 2007 inserted Section 17D in the KGST Act to complete the KGST assessments pending as on 1 April 2007 under fast track method before 31 March 2008, by a team of officers constituted by

the CCT. The team had to complete the assessment fairly by summary proceedings. They were empowered to give reasonable concession on estimation of suppression of turnover. As the department could not complete all the pending assessments during that year, the Government extended the period first to 31 March 2009 and then to 31 March 2010.

In our opinion, the decision to subject all pre-VAT cases to assessment was laudable. However, the department could not furnish the details of the KGST assessments pending completion and number of assessments completed each year from 2003-04 onwards. This shows that the department was not effectively monitoring disposal of the assessments of the pre-VAT period under the fast track method.

**We recommend that the department may exercise more control over the completion of assessments of pre-VAT period to ensure that the assessments under fast track was effective and there was no leakage of revenue.**

### 3.7 Collection of arrears of taxes due under KGST and CST Acts

We analysed the arrears of receipts under the KGST and CST Act pending collection at the end of each year, arrears realised during each year from 2004-05 to 2008-09 as furnished by the CCT and found that there was a sudden

(Rupees in crore)

Year	Arrears under KGST/CST	Arrears collected	Percentage of collection
2004-05	2,777.23	60.43	2.18
2005-06	3,094.02	62.06	2.01
2006-07	12,948.05	101.88	0.79
2007-08	4,425.47	67.72	1.53
2008-09	3,328.56	145.66	4.38

increase in the arrears during 2006-07, substantial decrease during 2007-08 and 2008-09. Despite our specific requests, the department has not intimated the reasons for such abnormal movement of the figures. Also, the percentage of collection of arrears was negligible and remained well below five per cent which is a matter of concern.

The Government introduced (April 2008) a scheme for clearing of arrears, under which, the AAs could waive 100, 95 and 90 per cent of interest and penalty on demands pertaining to the period upto 31 March 1996, 31 March 2000 and 31 March 2005 respectively, if the dealer opted for payment of arrears before September 2009 or such other notified date. In the case of demand upto March 1991, 25 per cent of tax was to be waived.

Despite these desperate efforts, the department could collect only Rs. 145.66 crore during 2008-09 out of the arrears of Rs. 3,328.56 crore.

We are of the opinion that huge pendency of arrears and subsequent loss of revenue on account of various waivers announced by the Government are results of ineffective monitoring coupled with non-initiation of timely action for recovery of Government dues over the years.

**We recommend that the department may install a strong mechanism for monitoring the arrears and take time bound action to recover them. They may also consider fixing responsibility on the officer-in-charge for non-recovery of dues under his charge.**