CHAPTER V RETURNS, THEIR SCRUTINY AND AUDIT ASSESSMENT

5.1 Returns

Registered dealers as well as those liable to be registered under KVAT Act are required to file monthly/quarterly as well as annual returns, showing the details of total turnover, turnover on which exemption is claimed, taxable turnover, output tax due, tax collected, ITC availed of, tax due including reverse tax, if any, and the tax paid separately for that return period.

5.1.1 Deficiencies in forms for submitting returns

Annual returns are to be filed in form 10. The Government have prescribed separate forms of return from 10 A to 10 F for presumptive tax dealers, works contractors, awarders of works, dealers paying compounded tax, casual traders and the Government departments. We noticed that the revised format of purchase statement prescribed from 11 December 2007 does not provide space for the description of goods without which it is difficult *to* detect excess claim of ITC *prima facie* from that statement.

5.1.2 Mechanism to monitor filing of returns

Under the KVAT Act, most of the dealers are required to file the monthly return while certain dealers are required to file the quarterly returns. Due date for filing the monthly return is 10th/15th of subsequent month and that for the quarterly return is 15th of the month following the quarter. We analysed the process of filing of the returns and noticed the following deficiencies.

5.1.2.1 Deficiency in provisions of the Act/Rules

- The KVAT Act and Rules do not provide for any specific penal clause for belated filing of the returns, though the Act specifies penalty for non-filing of any return and interest for belated payment of tax.
- The CTOs did not maintain any register to show whether the returns/ revised returns alongwith payment particulars have been filed within the due date or whether notice was issued to the defaulting dealers. This was due to the absence of any provisions in the Rules or manual.

5.1.2.2 Deficiencies in compliance with provisions for filing of returns

On analysis of the data on returns received from all DCs, except DC, Alappuzha, we noticed the following deficiencies.

- The AAs did not invoke the penal clause specified in section 67[11] against 11,168 dealers who had not filed the periodical returns during 2005-06 to 2007-08. Consequently, penalty of Rs. 11.17 crore[12] was not realised from the defaulting dealers.
- Dealers with annual output tax liability on intrastate sale of Rs. 25 lakh or more and wholesale dealers, distributors/dealers holding van sale permit were required to file the return of purchase and sale list electronically in addition to hard copy from 1 April 2007.

  We found that only 3,329 dealers had filed the returns in electronic format that year. Despite our specific requests, the DCs did not furnish the number of dealers who had not filed the return in electronic formats during 2007-08. The database showing output tax due from the dealers during 2005-06 to 2007-08 was not available in KVATIS. Hence neither we nor the department could ascertain the number of dealers who had statutory obligation of e-filing of returns.
- The dealers are required to file annual return before 30 April every year. We noticed that 44,251 annual returns had not been filed during the years 2005-06 to 2007-08.
- Every casual trader shall submit to the AA a monthly return alongwith the proof for payment of the tax due. If he stops his occasional transaction during the course of a month, he shall file return within 24 hours of completion of last transaction. We found that many casual traders were evading from registration and were avoiding filing of returns. Besides, out of 487 such dealers who had obtained registration during 2005-06 to 2007-08, 374 dealers had filed returns, of which 325 dealers had paid advance tax.
- Most of the Central/State Government departments, Union Territory, local authorities and autonomous bodies and transporting agencies had not obtained registration and hence were not filing mandatory quarterly return.

We recommend that the department may take action contemplated in the KVAT Act and levy penalty against the dealers for default in submission of returns in time.

5.1.3 Documents to be furnished alongwith the returns

The KVAT Rules specify the records to be submitted alongwith the monthly and annual returns. We found following deficiencies in the documentation process.

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[11] Section 67 deals with general penal measures for various offences.

[12] At the rate of Rs. 10,000 in each case.

5.1.3.1 Deficiency in provisions

- The list of records to be furnished alongwith the VAT annual return do not include abstract of utilisation of C/F/H forms prescribed under the CST (Registration and Turnover) Rules, 1957, though KGST Rules provided for mandatory submission of the same. These are essential to cross check whether, dealers had accounted for interstate purchases/stock transfer receipt of goods, against which they issue the forms.

In response to our query, seven DCs[13] have admitted that for the years 2005-06 to 2007-08 the dealers concerned had not furnished such details in 4,085 cases. Consequently, the interstate purchase/stock transfer received by these dealers during these years remained unchecked leaving possibility of leakage of revenue as illustrated below.

A dealer in Special Circle, Thiruvananthapuram, issued nine F forms for 2005-06 but did not concede any interstate stock transfer receipt during the year. The AA did not obtain and cross verify the abstract of the forms C/F while scrutinising the returns.

We are of the opinion that the Government may amend the list of records to be furnished with annual returns to include the details of statutory forms issued by the dealers and department may undertake their cross verification at the time of the scrutiny of the returns/ audit assessments.

- Dealers having a total annual turnover not less than Rs. 10 lakh are liable to pay tax. Further, dealers having turnover less than Rs. 50 lakh have an option to pay presumptive tax at 0.5 *per cent* of the taxable turnover. Dealers crossing the above limit are required to pay tax at the prescribed rates. Thus, it is important to monitor the total turnover of the dealers at periodic intervals.

We found that the AAs were ascertaining eligibility for VAT liability (Rs. 10 lakh) and presumptive tax liability (Rs. 50 lakh) solely through the returns and the P&L account submitted by the dealers without ascertaining their correctness with reference to the books of accounts of the dealers. As such there was no scope for detection of dealers crossing the threshold causing loss of revenue as enumerated in paragraph 4.4.1.1.

We recommend that the Government may consider evolving a mechanism where the books of accounts of the presumptive tax paying dealers are verified to detect such dealers crossing the prescribed threshold limit.

[13] Idukki, Kannur, Kottayam, Kozhikode, Malappuram, Palakkad and Thrissur

5.1.3.2 Non-furnishing of enclosures of returns

Our analysis of the data furnished by the DCs of the circles test checked revealed that many of the dealers were not filing of the following documents which are to be filed alongwith annual return or thereafter mandatorily.

Document to be furnished	Period	No of cases for which documents were		Percentage of non-compliance
		due	not filed	
Stock inventory as on 31 March	2005-06 to 2007-08	3,10,886	1,18,459	38.10
Audited statements of accounts and certificate from a Chartered Accountant or Cost Accountant to be filed by the dealers having total turnover exceeding Rs. 40 lakh.	2005-06 to 2007-08	61,120	7,529	12.32
Copy of balance sheet with trading/manufacturing and P&L account by dealers whose total turnover was less than Rs. 40 lakh.	2006-07 and 2007-08	1,74,827	72,384	41.40
Registered dealers having head office situated outside the state have to file Statements of accounts in respect of activities in the State separately along with the consolidated balance sheet and P&L Account if they have not drawn it up separately in the Audit Report.	2006-07 and 2007-08	Not available	Such dealers are mainly operating at Ernakulam and were not filing these statements.	
Reconciliation statements, in case where the details furnished in the annual return vary from those furnished in the monthly returns or P&L Account.	We found that the dealers are not filing it punctually. But only DCs offices Alappuzha and Thrissur admitted non-filing in 84 cases.			

VAT relies on self assessment and AAs are not required to scrutinise the original books of accounts of the dealers in majority of the cases. Hence, the above documents are the only source for detection of short assessment of tax, suppression of turnover, excess availing of ITC etc. However, we found that the department has invoked penal provision such as imposition of penalty upto Rs. 10,000 for non-furnishing of the above enclosures in very few cases.

We recommend that the department may initiate action such as imposition of penalty, suspension of registration etc., against those who fail to furnish prescribed documents and may deny such dealers statutory declaration forms including those under the CST Act.

5.2 Scrutiny and verification of the returns

The assessment relating to the return period is deemed to be complete if the dealer submits the return in the prescribed manner and accompanied by the prescribed documents with correct particulars. Otherwise, the AA has to reject the return after recording the reasons thereof. The AA can complete the assessment to the best of his judgment if the dealer fails to file a fresh return rectifying the defects, or fails to respond to notice for best judgment assessment.

We noticed the following deficiencies in the process of scrutiny and verification of returns.

5.2.1 Deficiency in provisions

5.2.1.1 Short levy due to incorrect acceptance of CST return

The CST Act provides that, 'the general sales tax law' of the State should govern the assessment, re-assessment, collection and enforcement of payment of tax, including any interest or penalty, returns, provisional assessment, advance payment of tax etc . Under the KVAT Act, if the dealer submits the returns in the prescribed manner, assessment shall be deemed to be completed, unless the return is rejected. This is applicable to the CST returns also. Under the CST (Registration and Turnover) Rules, as amended from October 2005, a dealer should furnish declaration in form 'C' or 'F' or the certificate in form E-I or form E-II to the prescribed authority **within three months** after the end of the period to which the declaration or the certificate relates.

We found that though the CST Rule was amended, the State Government did not amend the CST Kerala Rules to incorporate the above changes. The CST Act requires the AAs to levy tax on the interstate sales turnover of goods not covered by valid declaration in form 'C/F' at the rate applicable to the goods under the local sales tax/VAT Act with effect from 1 April 2007. Prior to that date, tax on sale of goods not covered by form 'C/F' was to be assessed at the rate of 10 *per cent* or at the KVAT rate whichever was higher.

During scrutiny of the records in 19 CTOs[14] we noticed that in 184 cases for the years 2005-06 and 2006-07, the AAs did not reject the CST returns submitted, even though the dealers did not furnish declaration in form C/F within the prescribed time. As per the provisions of the CST Act and Rules, the AAs ought to have rejected the incomplete returns and demanded

[14] Special Circles Alappuzha, Ernakulam I, Ernakulam II, Ernakulam III, Kollam, Palakkad, Thiruvananthapuram and Thrissur and Circles Chalakudy, Changanassery I, Irinjalakuda, Kottayam, Kuthiathode, Pala, Pattambi, Mattanchery II, Nedumangad, Thripunithura II, and Thrissur III circle.

tax at the differential rate. This resulted in short levy of tax of Rs. 161.67 crore.

After we pointed out the mistake to the department between July 2008 and May 2009 and reported these to the Government in April 2009, the Government stated (December 2009) that the provision in Central Rule permits submission of declaration even after three months and that under CST (Kerala) Rules, 1957 framed under the CST Act the AAs can make CST assessment for each year by a single order and that dealers can submit declaration in form 'C' and 'F' at any time before completion of assessment. The interpretation is not correct since the State Rules framed based on the CST Act and Rules is void from the date of amendment to Central Act and Rules, *i.e.* October 2005. Besides, the concept of yearly assessment has been dispensed with after introduction of VAT and the KVAT Act provides for submission of returns alongwith all documents which is to be treated as self assessed, of which, only a few cases are to be taken up for detailed audit. Hence, it is mandatory to submit the declaration forms in support of claims of exemption/reduced rate of tax. Also, in case of non-submission of forms if the dealer is prevented by sufficient cause, the AAs has to expressly allow him extension which should be in written orders on the basis of specific requests by the dealers. In the above cases, the AAs clearly missed the point and the contention put forth by the Government is only an after thought after this matter was pointed out by us.

The Government further stated in April 2010 that dealers had since submitted statutory declarations under CST Act in most of the cases and the AAs accepted them and that differential tax was demanded from those who had not filed the declaration. The acceptance of the declaration forms belatedly was irregular as the concerned dealers did not submit the declaration forms in due time and neither sought extension of time in writing within the prescribed timeframe of three months nor did the AAs allow any such extension.

We recommend that the Government may amend the CST (Kerala) Rules immediately in line with the amendments made in the CST Act/ Rules and KVAT Act.

5.2.1.2 Non-prescription of register to watch rejection and follow up of returns

The KVAT Rules do not prescribe any register for monitoring receipt of the returns and as such there was no mechanism to monitor the scrutiny of returns and the circles are not maintaining any register to record rejection of return on scrutiny, issuance of notice for best judgment assessment and their follow up.

5.2.2 Deficiency in scrutiny and verification of the returns

Our analysis of the data (received from all DCs except DC, Ernakulam) on best judgment assessments conducted from 2005-06 to 2007-08 by the AAs based on scrutiny of returns indicated that the AAs issued notice for best judgment in 1,024 cases involving Rs. 20.79 crore. Of these, the dealers remitted tax, interest and penal interest of Rs. 1.30 crore in 468 cases and the AAs resorted to best judgment assessment under section 22(3) for non-response in 391 cases and created additional demand of Rs. 5.98 crore.

We also found that though the number of periodical and annual returns filed by the dealers ran into lakhs, the AAs had resorted to best judgment assessments based on their scrutiny only in a few cases. Since results of scrutiny of 60 annual returns by audit revealed large number of discrepancies, the department may increase the quantum of scrutiny.

5.2.3 Results of scrutiny of returns conducted by audit

We scrutinised the annual returns of some major dealers during the course of review with reference to the monthly returns and form 13A[15] and P&L account to ascertain the compliance with provisions of the KVAT Act with special emphasis on areas where it differed significantly with that of the KGST Act and to verify the effectiveness of departmental scrutiny of the returns of the dealers, whose assessments were deemed as complete. The results of the same are included in the following paragraph and instances of availing of excess ITC in paragraph 6.1.4.

5.2.3.1 Scrutiny of returns of dealers other than work contractors

Provisions of the KGST Act and KVAT Act differed in the following aspects on taxation of discount, used car and medicines.

Item	KGST Act	KVAT Act
Discount	Dealers can exclude all discount allowed as per regular practice in trade while determining taxable turnover.	Act allows to deduct from turnover only discount shown in original invoice, as the purchaser is availing ITC on its basis.
Sale of motor vehicle	Dealer can claim exemption of sales turnover, if taxed at the point of first sale in the State.	If the vehicle is used for a minimum period of fifteen months subsequent to registration (used motor vehicle), rate of tax is four *per cent* up to 23 April 2007 and 0.5 *per cent* thereafter instead of normal rate of 12.5 *per cent* for motor vehicle.

[15] Audited Statement of Accounts to be furnished along with the Audit Certificate.

Item	KGST Act	KVAT Act
Medicine	Sale other than the first point sale in the State is exempted.	If the first seller in the State opted and paid compounded tax based on MRP, then only the second and subsequent sellers can avail exemption on sale of such goods. The former shall not allow any trade discount or incentive in terms of quantity of goods.

We scrutinised 30 annual returns of major dealers in CTO, Special Circle, Thiruvananthapuram, who were allowing discount, transacting in used car and involved in first sale of medicines, to ascertain the compliance of the above provisions. It revealed that, in the following cases, the AAs failed to detect in departmental scrutiny, defects in self assessments which resulted in short/non-levy of tax, interest and penal interest amounting Rs 8.08 crore.

(Rupees in crore)

Sl. No.	Year	Nature of irregularity	Short levy
1.	2005-06 and 2006-07	An assessee availed Rs. 2.23 crore and Rs. 1.40 crore as ITC on discounts and price difference allowed not through invoice but through credit notes. The assessing authority incorrectly exempted the discount allowed through credit note from the sales turnover.	7.16
	The Government confirmed completion of assessment for the year 2005-06 involving short levy of tax, interest and penal interest of Rs 4.71 crore to make good the short levy and stated that assessment for the year 2006-07 was being finalised. We are yet to receive further information on the matter (June 2010).		
2.	2005-06 to 2007-08	During 2005-06 and 2006-07, an assessee did not assess to tax, sales turnover of used vehicle aggregating Rs. 10.97 crore and during 2007-08 he assessed turnover of Rs. 1.01 crore only out of Rs. 13.67 crore.	0.90
	The Government confirmed reassessment of escaped turnover to tax and interest. We are yet to receive further information on recovery of revenue.		
3.	The Supreme Court in the case of M/s Mohammed Ekram Khan and Sons Vs Commissioner of Trade Tax (12 KTR 572) held that warranty charges received for replacing defective parts is sale of goods and is liable to tax.		
	2006-07	A dealer in motor vehicles and spare parts did not assess out put tax on warranty receipts of Rs. 10.42 lakh.	0.02
	The Government confirmed that the assessment had been revised. We are yet to receive further information on recovery of revenue (June 2010).		

5.2.3.2 Scrutiny of returns of work contractors

Our scrutiny of 25 annual returns of contractors of civil works and five annual returns of other type of contractors in CTO (WC), Thiruvananthapuram revealed that in the following cases, the AAs while

conducting scrutiny of the returns did not detect and rectify defects which resulted in short levy of tax, interest and penal interest of Rs. 13.69 crore.

(Rupees in crore)

Sl. No.	Year	Nature of irregularity	Short levy
1.	The KVAT Act provide for levy of compounded tax on whole amount of contract. Tax is assessed on actual contract receipts of the year, i.e., on the whole amount received for the contract during the year including advance from customers.		
	2005-06 to 2007-08	In four cases, work contractors assessed compounded tax on contract receipt aggregating to Rs. 142.77 crore only, but contract receipt on actual basis aggregated to Rs. 211.63 crore. Thus, tax was not levied on turnover of Rs. 68.86 crore.	4.19
	The Department confirmed completion of assessment in two cases and created an additional demand of tax and interest of Rs 25.77 lakh against Rs. 28.30 lakh pointed out by audit and stated that they are finalising assessment in the remaining cases.		
2.	2005-06 to 2006-07	A dealer commenced two new projects during 2005-06 and received advance of Rs. 3.76 crore and Rs. 13.45 crore and assessed tax of Rs. 1.20 lakh and Rs. 4.48 lakh based on transfer value of materials during those years. The dealer assessed compounded tax, for the first project from 2006-07 onwards and the second from 2007-08. The dealer evaded tax by switching over to compounded tax irregularly.	1.17
	The Government stated that department would complete the assessments. We are yet to receive further information.		
3.	Under the KVAT Rules, as it stood prior to 24 April 2007, in relation to works contract, where the transfer of goods is not in the form of goods but in some other form, the value of such goods shall be the value of goods at the time of incorporation into works contract. The value of goods transferred in the execution of works contract shall not be less than the purchase value and shall include all expenses and charges incurred for the conversion of goods into the form in which they are incorporated into the works contract. If the turnover is not ascertainable from the books of accounts, the turnover is to be computed after deducting labour and other charges at various rates as specified in the table under Rule 9(3). For structural contract, Rules specify a deduction of 30 *per cent* of contract receipts towards labour and other charges		
	2005-06 to 2007-08	In two cases, the contractors assessed tax on transfer value of materials which was almost equivalent or even less than the purchase value of goods. Labour and other charges deducted by them constituted 52.40 *per cent* to 77.48 *per cent* of contract receipts. They did not show separately labour charges incurred for conversion of the material into the form in which the goods are incorporated into the work and hence were eligible for deduction of 30 *per cent* only.	4.12

Sl. No.	Year	Nature of irregularity	Short levy
	The department intimated issuance of notice to revise the assessment of one assessee for 2005-06 and 2006 07 and that though they revised assessment of other assessee in May 2009, they kept in abeyance coercive proceedings as per court direction.		
We found that one of the above dealer who had assessed tax on transfer value of goods during 2005-06 and 2006-07 had irregularly switched over to compounded tax at the rate of two *per cent* during 2007-08 for the ongoing projects. As the dealer was registered under CST Act, he is liable to assess tax on his contract receipt of Rs. 21.01 crore at four *per cent.* Assessment of tax at Rs. 49.64 lakh instead of Rs. 84.03 lakh due resulted in short assessment of tax, interest and penal interest of Rs. 48.82 lakh. The Government stated that the contractor had requested for cancellation of registration with effect from 31 March 2007 and that he had remitted registration fee applicable to CST registration by mistake. The reply is not tenable as the CST Act provide that to cancel CST registration with effect from 31 March 2007, the assesee should file application before October 2006. There is no evidence to prove that he had done it.			
4.	2005-06 and 2006-07	Audit assessments of a dealer engaged in the fabrication and cladding of aluminum fittings was finalized in April and July 2008. The AA incorrectly deducted the charges for loading, transporting and unloading and other expenditure incurred for the conversion of goods into the form in which they were incorporated into the works contract, from the taxable turnover.	0.38
	The Government stated that notice had been issued for assessment of escaped turnover. We are yet to receive further information.		
5.	A works contractor who opts to pay compounded tax at two *per cent* is liable to pay purchase tax on purchases made from unregistered dealers. Hence, the dealer is liable to prove that he had either purchased goods, from registered dealers within the State or paid purchase tax.		
	2007-08	A builder who had opted for payment of compounded tax at two *per cent,* enclosed alongwith his returns list of purchases effected from the registered dealers as well as list of purchases from the unregistered dealer, liable to purchase tax. Aggregate of the above purchases was much less than the purchase value of materials disclosed in the P & L account. As the dealers is not registered under the CST Act, he apparently procured stock for the differential value from within the State from sources other than dealers liable to tax. The AA did not take any action to assess purchase tax for the differential amount.	0.55
	The Government stated that the Department completed assessment for the year 2006-07 and notice had been issued for revising assessment of 2007-08. We are yet to receive further information.		

Sl. No.	Year	Nature of irregularity	Short levy
6.	Under the KVAT Act, in the case of transfer of goods involved in the execution of works contract where transfer is in the form of goods, rate of tax applicable is that specified for the goods in the respective schedules. The Act does not provide for deduction of labour and other charges from gross receipts in such category of the works contract.		
	2005-06 to 2007-08	A works contractor engaged in painting and polishing and body fabrication tinkering job, availed deduction of Rs. 1.87 crore towards labour at the rate of 25 *per cent* of the whole amount of works contract receipts. He was not eligible for deduction of labour and other charges as fabrication of the body on the chassis of the motor vehicles is sale of body of the vehicles.	0.12
	The Government confirmed that the assessment has been revised. We are yet to receive further information on recovery of revenue.		
7.	Under the KVAT Act, principal contractor can deduct from his taxable turnover, the amount paid to the sub-contractors registered under the Act for execution of works contract, if he furnishes certificates in form 20 H and copies of agreement with the sub-contractor, in support of the claim for deduction.		
	2005-06 to 2007-08	An assessee who opted for compounded tax on housing projects executed by him availed exemption of Rs. 47.62 crore from the contract receipt, towards payment to sub-contractors without filing certificate in form 20 H and copy of the agreement with the sub-contractors or deducting any tax in the capacity as the awarder.	3.16
	The Government stated that the assessee filed form 20 H for Rs 10.20 crore out of Rs. 10.99 crore for 2005-06 and the department finalised the assessment and demanded tax and interest of Rs. 0.83 lakh for the differential turnover. They also confirmed that they were completing assessment for the remaining years. We noticed that while finalising the assessment department had not taken into account non-deduction of tax at source from sub-contractors and non-filing of agreement with the sub-contractors.		
8.	Under the KVAT Rules, work contractors should file option for compounding in form No. 1 DA, within 30 days from the date on which contract is concluded. A single option may cover one or more works contract. The dealer may also file a single option for all the works undertaken by him during a year. If the AA is satisfied, he shall grant permission in form 4 D.		
	During scrutiny of the records we noticed that most of the contractors did not enter the date of option and year and projects to which the options related etc, in their compounding options filed. The AAs neither acknowledged these options nor granted permission in form 4 D. This would entail scope for the dealers to withdraw the option, if found unfavorable subsequently. For example, in the case of Sl No. 2 of this table, the assessee had filed option for compounding during 2005-06 but he withdrew the option in respect of the project on the ground that AA did not accept it till then.		

We feel that the Department may direct the AAs to conduct thorough scrutiny of the annual returns and accounts submitted by the dealers to unearth evasion of tax. For this, they may consider issuing a check list containing important points to be checked during scrutiny. The Department may also ensure that dealers who file the option forms, invariably fill in the columns relating to date, year and project to which it relates etc., and the AAs promptly issue acknowledgement and permission in form 4D.

5.3 Audit Assessment

As per the KVAT Act, officers not below the rank of DC can be designated to conduct audit visit at the business place of any dealer and to audit any return, books of accounts, any other records or stock statements and goods relating to the business. He may authorise not less than two audit officers not below the rank of an AA to visit the place of business of any dealer and to conduct audit. The Government had designated six DCs[16] to conduct audit assessment. During the review, we noticed the following shortcomings in the process of audit assessments.

5.3.1 Percentage of dealers to be taken up for audit assessment

The percentage of the dealers to be taken up for the audit assessment is not specified in the Act/Rules. The CCT issued a detailed circular in November 2005 specifying the criteria for selection of files for audit assessment, under which previous offences, refund claims, excessive claims of ITC, information on proven or attempted evasion of tax gathered through vehicle checking or other agencies like Central Excise, Income Tax etc., should be the primary criteria for selection of files.

The audit assessment wing is also required to conduct a random scrutiny of five *per cent* each of the returns already scrutinised by the officers of VAT circles.

In the assessments circles selected for test check we found that there was no database regarding the turnover, tax collected, offences committed etc. Consequently, we could not ascertain whether the audit assessment wing followed the prescribed criteria in selection of returns for audit.

The Government stated that month-wise turnover and tax collection is available in KVATIS and that department enter the details of offence booked by intelligence wing in offence module of KVATIS and that concerned circle can view it. The fact remains that the details after introduction of e-filing only are available in the KVATIS and also the data available in the offence module are not exhaustive.

[16] Ernakulam, Kannur, Kottayam, Kozhikode, Palakkad and Thiruvananthapuram.

We feel that the department may take suitable steps to upload the data relating to the period prior to introduction of e-filing to make the database self sufficient.

5.3.2 Time frame for completion of audit assessment

KVAT Act empowers the AAs to reject the return within two years from the last date of the year to which it relates, if return submitted is incorrect or incomplete or ITC or special rebate or refund claimed is not proved. However, the Act does not specify a time frame for completion of the audit assessment even though the design of VAT approved by the EPC stipulated a period of six months time limit for completion of audit assessment.

The Government stated that Section 24 of KVAT Act stipulate time frame for tax audit. However, the provision referred to by the Government allows rejection of return within two years but does not specifically mention about completion of audit assessments.

The pending files in Offices of DC (Audit assessments) were returned to the AAs consequent to the reorganisation of the Audit assessment wing. The Audit assessment wing did not maintain a register for recording details regarding the date of receipt/return of files for audit and date of completion of audit, due to absence of statutory provisions. As relevant data was not available, we could not ascertain whether any inordinate delay had occurred in completion of audit assessments.

We recommend that the Government may specify a time frame for completion of audit assessment and department may prescribe a monitoring system for noting receipt and disposal of files for audit.

5.3.3 Deficiency in performance of audit assessment wing

The details of number of files subjected to audit assessment and the quantum of additional demand generated during the period of review as disclosed by the information made available from the office of the DC (AAs), Thiruvananthapuram having jurisdiction over the districts of Kollam, Pathanamthitta and Thiruvananthapuram are shown in the table below.

	Self assessment		Form 25A	Refund	Audit visit	Desk verification of accounts
	Monthly	Quarterly				
2005-06						
No of returns	1,917	273	757		46	
No. of cases in which irregularities occurred	108	25	237		29	

	Self assessment		Form 25A	Refund	Audit visit	Desk verification of accounts
	Monthly	Quarterly				
Financial impact (Rs in lakh)	85.63	4.51	295.56		12.83	
2006-07						
No of returns	11,695	362		20	297	
No. of cases in which irregularities occurred	996	28		1	297	
Financial impact (Rs in lakh)	49.48	2.55		1.24	104.86	
2007-08						
No of returns	20,669				296	1,628
No. of cases in which irregularities occurred					265	666
Financial impact (Rs in lakh)					182.81	3,523.71
Total for 2005-06 to 2007-08						
No of returns	34,281	635	757	20	639	1,628
No of cases in which irregularities occurred	1,104	53	237	1	591	666
Financial impact (Rupees in lakh)	135.11	7.06	295.56	1.24	300.50	3523.71

It is evident from the above details, that during 2005-06 to 2006-07, the audit assessments mainly remained confined to the scrutiny of returns. The DC (AA) had commenced verification of accounts of the dealers at his office only in 2007-08. The Act actually contemplates visit to dealer's premises and audit of accounts and records of the dealers maintained therein. This was done only in very few cases. However, figures in column 6 reveal that, the wing detected irregularity in 591 out of 639 cases of audit visits. This clearly indicated that such audit visit detected evasion of tax in almost 92.49 *per cent* cases.

We also observed that the AAs refunded the excess input tax remaining unadjusted at the end of the year to the dealers without comprehensive scrutiny as Rules do not prescribe for the same. Though such files required thorough scrutiny by the audit assessment wing, we found that only very few refund files were checked.

We feel that the department may give thrust for verification of returns with the accounts of the dealer. They may fix target to conduct audit assessment at the premises of the dealer and may arrange thorough scrutiny of claim for refund of excess ITC to avoid irregular refund.