

Annexure - I - Detailed Report

The C & AG has included the audit case relating to M/s. St. Thomas Wood Industries, Avisissery for the year 2006 - 07 in the audit report for the year ended 31.03.2009 (Vol. II) vide para 4.4.1.1.

As per the observations in the Local Audit Report, the books of accounts of the assessee were called for and verified in detail. On verification, it was found that the entire purchase of packing cases was not effected by the assessee from 5 persons pointed out in the audit note. As per the purchase bills and vouchers produced for verification, the purchases were effected from unregistered dealers numbering to more than 70 persons. As per the records, the above 5 dealers had no turnover exceeding Rs. 5,00,000/- and they were found to be not liable for registration under the KVAT Act. This aspect was confirmed by the Chartered Accountant who had conducted the compulsory audit under section 42 of the Act, a copy of which was already forwarded along with the reply to audit. The observation in audit was that as per the purchase list filed by the assessee, the major share of the purchases is effected from 5 unregistered dealers. The explanation of the assessee was that it was due to the laziness and mistake of the accountant that the purchases were shown as only from 5 persons instead of listing the 70 odd suppliers. He has mentioned that name of only 5 persons in the purchase list. Assessing authority examined the contentions of the dealer with the books of accounts produced including purchase vouchers and on personal enquiry revealed that there is some merit in the contention of the assessee. The verification of accounts also revealed that the five persons have the following turnover only during the year 2006-07 and found that all these five persons have not exceeded the turnover of 5 lakhs to get registered under KVAT Act 2002. The details of their turnover as per books of accounts are given below.

1. Vasu Vallachir	Rs. 479640/-
2. Jose Vallachira	Rs. 287481/-
3. Sunil Perinchery	Rs. 175425/-
4. Davis Perinchery	Rs. 192699/-
5. Unnikrishnan Pattambi	Rs. 193873/-

The contention of the assessee was found to be acceptable as per the books of accounts produced and in the light of the above facts; the objection in audit was found to be unsustainable.

Without prejudice to the above, coming to the quantification of the escape of Registration Fee and Penalty arrived on by the audit, it is also seen that there are some factual mistakes. The registration fee stated to be escaped is fixed at Rs. 1,00,000/- i.e., maximum registration fee of Rs. 20,000/- each from 5 dealers. The maximum registration fee has been estimated solely for the reason that the turnover of the purchasing dealers would be above crores of rupees considering the sales effected by them to other dealers. This observation of the audit is purely based on presumptions and surmises. As per the details of purchases relied on by the audit in estimating the tax due for the purpose of determination of the penalty, the details of sales turnover is as follows:

Vasu Vallachira	Rs. 17,95,680/-
Jose Vallachira	Rs. 19,56,990/-
Sunil Perinchery	Rs. 11,12,890/-
Davis Perinchery	Rs. 12,68,400/-
Unnikrishnan Pattambi	Rs. 10,06,570/-

In order to levy Registration fee of Rs. 20,000/- each from the dealer, they should have turn over above Rs. 4,10,00,000/-

Apart from the above purchase details available in the assessment records, there are no other material evidences either with the assessing authority or with the audit party to show that the turnover of the purchasing dealers have exceeded Rs. 4,10,00,000/- There are no evidences to show that the above dealers have effected sales of packing cases to any other dealers in Kerala. In the absence of such evidences, the observation that the turnovers of the above dealers are above crores of rupees and thereby, they are liable to pay the maximum registration fee of Rs. 20,000/- each is not legally sustainable. The entire findings of audit are based on the purchase details available in the assessment records. If this is to be regarded as the purchase turnover of the above 5 dealers, though no such evidences are revealed on verification of the accounts the estimation of the quantum of penalty is arrived at double the rate

of tax on the turnover conceded in the purchase list, the audit is not justified in estimating another turnover for the purpose of levy of registration fee. Based on the turnover conceded in the purchase list, the registration fee, if any, due from the above 5 dealers as per the table to Section 16(1) of the Act are as follows.

	<u>Turnover</u>	<u>Registration fee due</u>
Vasu, Vallachira	Rs. 17,95,680/-	Rs. 1,200/-
Jose, Vallachira	Rs. 19,56,990/-	Rs. 1,250/-
Sunil, Perincherry	Rs. 11,12,690/-	Rs. 1,050/-
Davis, Perincherry	Rs. 12,68,400/-	Rs. 1,075/-
Unnikrishnan, Pattambi	Rs. 10,08,670/-	Rs. 1,025/-

		Rs. 6,600/-
		=====

As per the third provision to section 6(1) of the KVAT Act where the total turnover of a dealer, other than an importer or casual trader or agent of a non-resident dealer or dealer in jewellery of gold, silver and platinum group metals and silver articles or contractor, exceeds ten lakh rupees for the first time during the course of an year, such dealer shall be liable to pay tax under this sub-section only on the turnover in excess of ten lakh rupees. By virtue of the above provisions, the above dealers are liable to pay tax only on the turnover exceeding Rs. 10,00,000/- as the assessment year under question is the first year of their business and their turnover has exceeded Rs. 10,00,000/- for the first time. The audit has no case that the above 5 dealers have done business in the previous years or no such material evidence is available with the assessing authority. The above 5 dealers are liable to pay tax only on the turnover exceeding Rs. 10 lakhs during the assessment year 2006-07. So, the tax liability, if any, of the above 5 dealers has to be worked out as follows.

	<u>Total Turnover</u>	<u>Taxable Turnover</u>	<u>Tax due @ 4%</u>
Vasu, Vallachira	Rs. 17,95,680/-	Rs. 7,95,680/-	Rs. 31,827/-
Jose, Vallachira	Rs. 19,56,990/-	Rs. 9,56,990/-	Rs. 38,280/-
Sunil, Perincherry	Rs. 11,12,690/-	Rs. 1,12,690/-	Rs. 4,508/-
Davis, Perincherry	Rs. 12,68,400/-	Rs. 2,68,400/-	Rs. 10,736/-

Janikrishnan Pattambi Rs. 10,08,570/-	Rs. 8,570/-	Rs. 343/-

	Total	Rs. 85,694/-
		=====

The total tax due from the above 5 dealers come to Rs. 85,694/- only and penalty at twice the rate comes to Rs. 1,71,388/-. Hence, it can be seen that the escape of registration fee and penalty amounts to Rs. 1,77,988/- only as against Rs. 8.57 lakhs pointed out in the audit report. It is also pertinent to note that levy of penalty at twice the amount of tax due is not mandatory. The penalty contemplated under section 67(1) of the Act is an amount not exceeding twice the amount of tax sought to be evaded.

Considering the above facts, the observation of the audit is not sustainable.

Joint Commissioner(A&I)



(15) in section 57, to sub-section (3), the following proviso shall be inserted, namely:—

Provided that the power of the Deputy Commissioner to remand a case is limited to ex-parte orders only.”;

(16) in section 67, for the existing proviso, the following proviso shall be substituted, namely:—

Provided that in the case of item (c) above, a minimum penalty of rupees One Thousand shall directed to be paid.”;

(17) in the SCHEDULES,—

(a) in the First Schedule,—

(i) in serial number 4A, item number (2) and the entries against it in columns (2) and (3) shall be omitted;

(ii) after serial number 18 and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“18A. Flour, Sooji

(1) Wheat or meslin flour 1101.00.00

(2) Maida ****;

(3) Sooji ****”

(iii) in serial number 35A, in the entry in column (2), the words “paper cups” shall be added at the end;

(iv) in serial number 42, for the entry against it in column (2), the following entry and Note shall be substituted, namely:—

“Rice issued from Central/State
Government depots or sold by
Food Corporation of India for
sale by authorized ration dealers

Note:—This entry shall be deemed to have come into force on the 1st day of April, 2005”;

(v) after serial number 42A and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“42B. Rice bran oil

****;

17837

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DEPARTMENT OF REVENUE
THE HERRING TOWN ADDED TAX RECEIPT 2007



TRUCK TAX

CHASS

Name: CHASS
Number of dealer's stock books have been used: 1
Address of the Dealer: CHASS

Construction

PURCHASE OF REVENUE		AMOUNT PAID	REMARKS
MAJOR HEAD	MINOR HEAD		
MAJOR HEAD 110 STAFF TAX			
Description of goods		Amount	Remarks
1. <i>Construction</i>		67278	
2. <i>Van</i>		7892	
3. <i>Truck</i>		67278	
Total		143448	
Description of the goods			
1. <i>Van</i>			
2. <i>Truck</i>			
3. <i>Truck</i>			
Total			

Signature of the dealer: [Signature]
Signature of the collector: [Signature]
Date: 17/08/07

Department of Revenue
Herring Town
Barbados

THE KERALA VALUE ADDED TAX ACT, 1987
FORM NO. 12

NOTICE OF DEMAND

(See Rules 21, 34, 57, 58, & 59)

SELLER'S NAME (including personal name)

Registration Certificate No.

27050/70

Tax Identification No.

Demand No.

Assessment Year

2005/01

To *Changanacherry Junction
Mish. Karthiga House*

This notice has been issued in Form No. 10-BL-4 by you for the return period *1/10 to 3/10* and you are hereby notified that the office proceedings are closed *18/3/10* relating to assessment, or otherwise you are liable to pay balance dues as shown below.

Sl. No.	Particulars	Due	Paid	Balance
	<i>Tax</i>	<i>12905</i>	<i>-</i>	<i>12905</i>
	<i>Int</i>	<i>6065</i>	<i>-</i>	<i>6065</i>
	<i>Settlement fee</i>	<i>10196</i>	<i>-</i>	<i>10196</i>
	<i>70% of</i>	<i>3766</i>	<i>-</i>	<i>3766</i>

This balance amount of Rs. *3766* is due *Changanacherry Junction* and is to be paid within fifteen days from the date of service of this notice by crossed cheque or cash demand draft in favour of the undersigned or by remittance into the Treasury at *Changanacherry* which the same shall be accepted as a full and final discharge and/or the amount by *Changanacherry* being paid in full for imposition of penalty under Section 68 of the Act.

Place: *Changanacherry*

COMMERCIAL TAX OFFICER

Date: *18/3/10*

Note: If payment is made by Cheque, the Cheque must be made payable to the undersigned in the treasury concerned and the bank shall ensure that the amount is credited to the account of the undersigned.

[Signature]
18/3/10

PROCEEDINGS OF THE COMMERCIAL TAX OFFICE, CIRCLE
CHANGANACHERY

Present: Sri P. G. RADHAKRISHNAN

- Read:- 1. Notice issued U/S 25(1)
2. Reply filed 28.1.2010.

ORDER NO. 320507A/45/05/10 dttd 18/3/10

M/s Changanacherry Social Service Society is a Khadi Village-Industries Unit approved by Kerala Khadi & Village Ind. Board, dealer in honey soap, furniture etc. on the rolls of this office. The assessment for the year 2005/06 was completed on best judgment by including same suppressed turnover and the order issued on 26.03.08. On further scrutiny of the returns certain irregularities found are brought to the notice of the dealer as per Notice U/S 25(1) of the following proposals.

Turnover of Sale (Purchased Goods)

Month	Branch	Honey, Soap, Oil	Leather Goods
04/05	I	186264	30896
	II	2302.50	1300
	III	12897	6305
05/05	I	178696.50	43245
	II	2993	1160
	III	12612.20	7580
06/05	I	222696	29049
	II	1596	870
	III	13015.50	9400
07/05	I	238688	30381
	II	3856.50	640
	III	14384.50	7077

08/05	I	296135	50850
	II	2448	242
	III	13159.50	50693
09/05	I	172557	47866
	II	1024	376
	III	5243	
10/05	I	143666.50	43915
	II	1632	576
	III	12128.50	8140
11/05	I	45519	681
	II	16635	5797
12/05	I	231631	45094
	II	14574.50	13249
01/06	I	202496	41240
	II	13892	13566
02/06	I	17171.50	17016
	II	11139	7248
03/06	I	243712	17037
	II	12295	3537
		1426991	366778
TOTAL		2629223	591674

Out of the turnover exempted by 31st Dec turnover of Rs. 2,62,92,23/- and 12.5% turnover of Rs. 5,91,074/- was taxable @ 12.5% and 10% interest charges relating to sales of own products and exempted goods (Cmc. Cont. 1974) and the balance was taxable.

Table @ 4% on Rs.26,29,223/	Rs.1,05,169/-
Leather goods @ 12.5% on Rs.5,91,074/-	Rs. 73,884/-
Total	Rs.1,79,053/-

Above notice served on to the dealer on 25.1.10 assessee filed reply and produced books of accounts on 28.1.10 for the year 2005-06 and verified by me. In the reply they stated that:

1. On 30.11.2007 the Audit Team No. 1 from the office of the Deputy Commissioner (AA) Commercial Tax, Kottayam visited and inspected all the books of accounts for the year 2005-2006 and they issued notice under section 24(1) of the KVAT Act dt. 13.3.08 and we have replied dt. 19.3.08 by letter No. CS/KH/VAT/07.08/214.
2. The final assmt. order No. 32/50774045/2005-2006 dt. 28.3.08 presented by Sri. P.V. Iype, Office of the Deputy Commissioner (AA) Commercial Tax, Kottayam was received by this office on 29.03.08 and we have remitted the entire tax dues for the year 2005-2006 with interest on 30.03.2009.
3. Being an NGO, CHASS is having almost all the production of Khadi & VI items and we have also purchased some items for the sales at our Khadi Emporiums. The list of items sold out of the manufactured and purchased for the year 2005-2006 is enclosed as Annexure No. I (Page No. 1 to 6), reconciliation statement between monthly returns and Ledger Annexure No. II (Page No. 1 to 4) for your information. The same list was already presented and submitted before Sri. P.V. Iype, Office of the Deputy Commissioner (AA) Commercial Tax, Kottayam while conducting the spot verification. Together with this we are also submitting the copy of the Assessment Order as Annexure No. III (Page no. 1 to 10) for your information.

As per this assessment, the sales turnover of honey, soap and oil for the year 2005-06 is Rs. 2,24,795/- only and not Rs. 26,29,225/- as per your notice cited notice. The total sales effected for leather goods for the year 2005-06 was Rs. 5,05,769/- out of which Rs. 1,78,885/- was the sales made from the outside purchase and the balance Rs. 3,26,884/- is the own production and assessed by Team No. 1 of the Audit Party in the Office of the Deputy Commissioner (AA), Commercial Tax, Kottayam.

In this regard we may inform you that we have not purchased the finished goods of honey, soap and oil except the raw materials for producing the same and not claimed the input tax for the said raw materials consumed.

In total we have paid Rs. 27.04 lakhs as wages to our Artisans workers for production of various Khadi & VI goods during the year 2005-06 and copy of Form No. 13 & 13A in this regard is also enclosed. Annexure No. IV (Page No. 1 to 16) for your information and necessary action.

On verification of the books of accounts it is revealed that the society running beekeeping Indl. and training centres and the honey processed in these centres was included in the turnover conceded as non taxable items. The Society gave remuneration to these trainers against vouchers and these expense were included in trading profit and loss accounts as the direct expenses. The society also purchased raw honey valued Rs. 1,06,500/- for the year 2005-06 from local honey bee farmers and processed this raw honey as honey for sale which is an item coming under Ist. schedule to VAT Act as products notified by the Khadi & Village Industries Commission at the point of sale by the manufacturing units approved by Khadi & Village Industries Board. Hence the tax levied for the sale of honey, soap and oil for Rs. 26,29,225/- is treated as non taxable sales. Also on verification of accounts it is ascertained that the sales effected for leather goods to the tune of Rs. 1,78,885/- i.e. which was the purchase made from the outside, fully pay tax at

The following rate as the purchase was effected from same other dealers and it is assessed as under:

Sl. No.		12.5% taxable	4% taxable	Tax levied
1.	Khadi Grama Udyog Bhavan, Sastri Road, Kottayam	5452	5454	84.30
2.	Khadi Grama Udyog Bhavan, Palace Road, Changanacherry	10725	10394	41.57
3.	Khadi Bhavan, Near KSRTC Bus Stand, Ettimannoor	140	650	11.1
4.	Total	6767	11428	136.98

Interest @ 4%

Settlement fee

Total

Rs. 136.98

Rs. 16.196

Rs. 153.18

This should be paid as prescribed in the demand notice issued.

Comptroller of Accounts

To

The Secretary,
Changanacherry Social Service Society,
Arch Bishops House, Changanacherry.

Ccy:-

Received
18/3/10

REVENUE DEPARTMENT
 STATE OF MISSISSIPPI
 RECEIPT FOR PAYMENT OF SALES TAXES

1916-17

No. 25-167

Name of Debtor CHAUAN

No. 2000-22 of the period

Name of the dealer Changshing Food Service Co., Inc. of the District 500

PURPOSE OF REMITTANCE Pay 10% of 2647.50 for tax

DESCRIPTION	AMOUNT PAID	AMOUNT DUE
HEAD TAX - SAALOH HEAD ACCOUNT 10000-100 on Sales Tax 10%		
MINOR HEAD 110 Trade Tax		
SALES TAX 10% on \$2647.50	<u>264.75</u>	
10. Sales Tax 10%	<u>264.75</u>	
11. Excise Tax		
12. Insurance Tax		
13. Corporation Tax		
14. Registration Tax		
15. Interest	<u>8.54</u>	
16. Penalty		
17. Comptroller Fee		
18. Miscellaneous		
19. Other	<u>647.60</u>	
Total	<u>340.29</u>	

Amount paid 340.29 for 10% of 2647.50

Amount due 340.29

Date of payment May 15 1917

Signature of Debtor [Signature]

Signature of Collector [Signature]

Official Seal of the State of Mississippi

1916-17

PROCEEDINGS OF THE COMMERCIAL TAX OFFICER / CHANGANACHERRY

Present - Sri. P.G. Radhakrishnan
 Read - 1. Notice Issued US 25(1)
 2. Reply filed dt. 27.03.10

ORDER No. 32050774/45/06/07

M/s Changanacherry Social Service Society is a Khadi & Village Industries Unit approved by Kerala Khadi & Village Ind. Board, a dealer in honey, furniture etc. on the rolls of this office. On scrutiny of the returns, annual return and (3.13) A certain irregularities are found and brought to the notice of the dealer as per Notice US 25(1) for the following proposal.

The turnover on sales and output tax due for the return period 21XV.07.

Commodity	Total turnover	Exempted turnover	Output tax
Khadi & Village Inds.	1,01,75,332.00	1,01,75,332.00	
Furniture etc.	44,10,259.00	0	5,43,917.00
Leather	75,209.00		6,620.00

You had treated as a non taxable sales of Khadi and Village Industries items for a turnover of Rs. 1,01,75,332/- under entry 55 of the 1st schedule. The exemption is allowable on products notified by Khadi and Village Industries Commission at the point of sale by the manufacturing units (item 1 to 21) under the entry "in further scrutiny of the monthly return it was seen that you had purchased honey, traps, oil, leather goods etc. and the sales was treated as non taxable along wiv handwoven goods of own produce". Since the dealer was a dealer as well as a manufacturer recognized by Khadi and Village Industries Commission, the exemption was admissible on sales of goods manufactured.

The other item was taxable at the scheduled rate. The turnover exempted by you the turnover of Rs. 27,96,991/- was taxable @ 4%. Turnover of Rs. 5,59,911/- was taxable @ 12.5% and only balance turnover relating to sale of own prod. and exempted goods (cane, con, window frame etc. are non taxable)

Tax due @ 4% on 27,96,991	
Honey entry 58 of 3 rd schedule	Rs. 1,11,879.64
Hand made soap entry 58 of 3 rd schedule	

were included in the trading profit and loss accounts as the direct expenses. The society not purchased finished goods of honey soap and oil except the materials for producing the same and not claimed input tax for the said raw materials consumed. Hence tax levied for honey soap and oil for Rs. 27,96,991/- is treated as non taxable sales. Also a verification of the accounts it is ascertained that out of the total sales turnover effected for Rs. 5,59,916/- Rs. 2,45,821/- is @ 4% and Rs. 92,990/- is @ 12.5% taxable and the balance Rs. 2,21,105/- is the own production made from the Unit. This times is assessed as under.

Sl. No.	Name of the sales outlet	12.5% taxable	4% taxable	Tax levied
1	Khadi Gramodyog Bhavai, Sagari Road, Kottayam	85,545.00	1,72,364	17,588.60
2	Khadi Gramodyog Bhavai, Palace Road, Changanacherry	7,445.00	73,457.50	3,869.00
	TOTAL	92,990.00	2,45,821.50	21,457.60
			Interest @ 35%	8,725.16
			Settlement fee	2,175.24
			TOTAL	32,357.00

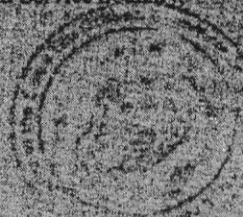
This should be paid as prescribed in the demand notice issued.

Commissioner, Tax Office

To

The Secretary,
Changanacherry Social Service Society,
Arch Bishop House,
Changanacherry.

Gey/-



Handwritten signature and date:
19/5/11

Leather goods @ 12.5%	Rs. 69,989.50
Rs. 5,59,916/- entry 54, 5 th Schedule	Rs. 1,81,869.14
Short levy of output tax amount to	Rs. 1,81,869.00

This should be paid with interest and settlement fee as per rules

Above the notice was served on to the dealer and the assessee filed reply and produced books of accounts for the year 2006-07 and verified by me in the reply was stated that "Being an NGO approved by both Central and State Govt. CHASS is having the production and marketing and almost all Khadi and Village Industries Units. We are having one honey processing centre and its training center at Samrudha Kunnpandam and also running Leather chappal manufacturing its training programme at Khadi Centre, AHIRAMPUZHA.

In this regard we may inform you that, we have not purchased the finished goods of honey soap and oil except the raw materials for producing the same and not claimed the input tax for the said raw materials consumed. These three items are already comes under the exempted category list of 21 items of Khadi and Village Industries Commission.

In total we have paid Rs. 31.70 lacs as wages to our Artisan Workers in the production of various Khadi and VI goods during the year 2006-07 and the same can be confirmed from the books of accounts of this institution.

As per notice the Sales turnover of leather goods for the year 2006-07 is Rs. 55,59,916/- of which Rs. 2,15,821/- is 4% taxable and Rs. 92,990/- is 12.5% taxable items, the total sales Rs. 3,32,811/- made from the outside purchase and the balance Rs. 2,21,105/- is the own production made from our unit. Khadi Centre AHIRAMPUZHA, chappals purchased and sold during the year 2006-07 is shown in schedule 1.

Therefore we humbly request your kind self to understand the facts and figures stated above and further action if any for demanding additional tax together

with interest for the year 2006-07 may please be dropped.

Thanking you in anticipation.

On verification of the books of accounts it is revealed that the honey processing bee keeping industries and training centres and the honey products from these centres were included in the turnover & concealed as non taxable items.

THE KERALA VALUE ADDED TAX
RULES 2009
FORM NO 13

Notice of demand

Rules 27, 28, 29, 31 & 35

Registration Certificate No.

Tax Identification No. 82050774015

Demand No.

Year Return Period 06-07

To
Chas
Chengamacherry

Take notice that on the basis of return in Form No. 10 filed by you for the return period 2006-07 and/or as per this office proceedings dated relating assessment or otherwise you are liable to pay balance dues as shown below.

Sl. No.	Particulars	Due	Paid	Balance
1	Tax	21457		21457
2	Interest			
3	Secured	8154		8154
4	Penalty			
5	Recht. & incidental fees			
6	Others	24462		24462
	TOTAL	Rs. 54073	Rs. —	Rs. 54073

The Balance amount of Rs. 54073 Rupees fully paid and self assessed shall be paid within fifteen days from the date of service of this notice by crossed cheque or crossed demand draft in favour of the undersigned or by remittance into the Government Treasury at Chengamacherry which the same will be recovered as if it were an amount of land revenue and/or dues imposed by the State besides being proceeded against for imposition of penalty under section 65 of the Act.

Date 1/5/10

[Signature]
Officer