



**Government of Karnataka
(Department of Commercial Taxes)**

No.CLR.CR.52/15-16

Office of the Commissioner of Commercial Taxes,
“Vanijya Therige Karyalaya”, 1st Main Road,
Kalidas Road, Gandhinagar, Bengaluru-560 009.
Dated: 12-06-2017.

Commissioner of Commercial Taxes Circular No. 05 /2017-18.

Sub:- KVAT Act 2003 - Clarification on certain issues regarding revised Return, claim of input tax credit etc.

Ref:- This office circular No.5/08-09, dated: 07/07/2008.

* * * *

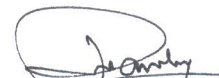
In view of the decision dated: 22-02-2016 of Hon'ble High Court of Karnataka in in STA No.04 & 44-54/2016 in case of Jones Lang LaSalle Property Consultant (India) Private Ltd. and taking into account the amended provisions of the KVAT Act 2003 and Rules made thereunder, it is considered necessary to modify the clarifications issued in Circular No.5/08-09, dated: 07/07/2008 and accordingly in partial modification of the said circular the following clarifications are issued:-

2. In respect of an eligible dealer permitted to pay tax both under the regular VAT payment scheme and composition tax as applicable for a dealer having an annual turnover within the prescribed limit of Rs.25 Lakhs or a hotelier or a contractor or a dealer running mechanized crushing units, a separate clarification and instructions have been issued in circular No.2/2015-16 Dated: 25/05/2015. The said instructions shall be followed.
3. The input tax credit on purchase of capital goods by a dealer is allowed only when the taxable turnover of such dealer is more than the limit specified in sub section (1) of Section 22 of the KVAT Act (Rs.10 Lakhs as of now).
4. As per section 35(4) of the KVAT Act, 2003 and as held by the Hon'ble High Court of Karnataka in various judgements like State of Karnataka Vs. Centum Industries Private Limited Bangalore in STRP No.294/2011 and 210/2013 dated:

31/07/2014, and M/s. Infinite Builders & Developers V/s State of Karnataka in STA Nos.59 of 2009 & 75-85 of 2013 c/w. STA Nos.60 of 2009 & 86-96 of 2013 dated: 30/05/2013, revised return can be filed only within six months from the tax period. Thereafter, the dealer is not allowed to file the revised return and claim the input tax credit.

However, in cases where the dealer voluntarily comes forward and declares the liability to pay the tax for any tax period where revised return cannot be filed due to the time limitation of six months as provided under Section 35(4) of KVAT Act 2003, the Local VAT Officer (LVO) or VAT Sub Officer (VSO) may accept the tax for the purpose of identifying the case for re-assessment. In such cases there is every likelihood of collection of taxes from the customers or passing on the incidence of tax to the buyers, resulting in undue enrichment. The concerned LVO / VSO shall refer such cases to the respective Joint Commissioner of Commercial Taxes of Divisional VAT Office (JC- DVO) for audit.

5. In cases where it is found that after availing of full input tax rebate, there is change in use of goods like interstate stock transfer, use for non-business purpose, etc., then such input tax rebate availed has to be reversed by initiating re-assessment proceedings through the jurisdictional JC-DVO, if the dealers concerned have not reversed the input tax rebate already availed.



(Ritvik Pandey)
Commissioner of Commercial Taxes
(Karnataka), Bengaluru.