

To,
Honorable Chief Minister
Government of Karnataka
Bengaluru.

Dear Sir,

Subject: Memorandum of Representations by the Karnataka State Chartered Accountants Association (KSCAA)

KSCAA is a state body, registered under the Karnataka Societies Registration Act, with the objective of promoting and protecting the mutual interest of the Chartered Accountant members and better equip them in discharging their professional obligations. The Association conducts seminars, conferences, work shops for professional interest of members and public.

This budget memorandum is a representation by the KSCAA, which intends to propose amendments in the KVAT Act and Rules for the upcoming State budget for the period 2015-16

Brevity, simplicity, clarity and transparency are the hallmarks of a good Law. A Law should be drafted in a simple and plain language. To enable simple and transparent provisions and to ensure a better tax compliance as well as enable efficient administration of tax collection amendments in the provisions as brought out or suggested below are essential.

MACRO PROPOSITIONS:

As we had been drawing your kind attention towards issues those require amendment to remove hardship every year, this year also we are submitting an appeal / Pre-Budget Memorandum for your kind consideration and making suitable amendment to the VAT Act.

1. Setting up of Expert Committee

India is a developing country. We have abundant resources but only an efficient utilization of these resources will make India a developed country. The Position in which The Karnataka Value Added Tax Law is at present is a misery. The draftsmanship errors, provisions contradicting other provisions, complicated system of tax computation are some of the major drawbacks. The outcomes of these are the disagreement of VAT authorities with the dealers leading to unnecessary litigations. **Tax Administration issues, loss of dealers time in running around meeting VAT authorities which otherwise could be used for productive purpose.**

To find an end to the problem faced by the dealers, professional and the tax administrators we suggest that a EXPERT COMMITTEE IS SET UP.

Constitution of the Expert Committee:

- a. It should consist of Professionals, senior officers from the Tax department, Trade bodies.
- b. The members of the Committee should possess knowledge of finance, accounts and taxation.

Functions of the Expert Committee:

A. Inviting queries from dealers, professionals and interested parties:

The committee should be formed to encourage dealers, professional, trade bodies and interested parties to approach the Expert Committee with queries.

B. Research oriented:

The Expert Committee should make research of various notifications, Clarifications issued by the commissioner, case laws references, Procedural implications, Amendment of laws and any other matter as required. This would enable them to resolve the queries of dealers, professional, trade bodies and interested parties.

C. Suggestion to Government

On the basis of the research the Committee should make recommendation to the tax administrators and the Government to bring about amendment in the Law.

D. Publications

The Committee should publish articles and research papers. The same should be communicated to Trade bodies, associations, departments and professionals.

The setting up of the Committee and its effective functioning will facilitate dealers understand the law better and comply with them. This ensures better tax compliance and more tax revenue.

Constitution of the Expert Committee for Works Contract issues:

The tax on Construction Industry is a complicated area due to the involvement of service and labour, the determination of time of sale, manner of billing (raising invoice) and determination of tax liability. The trade community, dealers and the departmental authorities are interpreting the laws in different manner. The approach to law not being harmonious, there are several litigations with no firm solution to any of them.

In this backdrop a Expert Committee should be set up exclusively set up to resolve the ambiguity.

2. The decision made in the case of M/s.Centum Industries by the Hon'ble High Court of Karnataka on 31st July 2014 has created big problem to the dealers for the reason that, the input tax credit allowable u/s 10 of KVAT Act is available only if the dealer has accounted the purchases in the books of accounts on the date of invoice and claimed in monthly return of respective month. The interpretation of this has been adopted by audit authorities in the line it has been dictated in the Court and have been disallowing the Input Tax credit on purchases which are recorded based on receipt of the goods as per the normal accounting practice. This provision has created lot of litigations and also led the Department to harass the traders with huge tax demands. Therefore, through this Memorandum, we request the Hon'ble Chief Minister to bring amendment to the Act to over come the decision made by the Hon'ble High Court of Karnataka with retrospective effect.
3. **Filing of revised returns:** The dealers are given facility to file revised return u/s 35(4) of KVAT Act. In the said section, the provision allows the dealer to have file revised return to correct the mistakes that have occurred while filing the original return. However, presently the section allows the dealer to file revised return before due date or before filing the return for the subsequent month. On account of revising the return if there is excess credit the same is adjustable to subsequent month and if filed after filing the return for the next month, the excess amount shall have to be claimed as refund. This provision is contradicting the dealer right to file a

revised return and claiming of refund is practically difficult to the dealers. Therefore, through this Memorandum of Appeal, we request the Hon'ble Chief Minister to make suitable modification to the software to allow the excess input credit or credits that have been missed or omitted in the earlier months upto six months without any hurdle so that the refund cases on account of this revised return filing will be minimized and the authorities issuing refund. The work load of authorities for issuing refund will also be reduced.

4. **Re-assessment of tax:** As provided u/s 38 and 39 of KVAT Act, the authorities are notified to carry on the assessment for re-assessment of accounts of the dealers. We have been witnessing that the dealers are receiving notices for many earlier years. Since, the notices are issued at a later year the dealer will have practical difficult in presenting before the authorities all the old records which probably have bundled and kept aside. Therefore, through this Memorandum, we request the Hon'ble Chief Minister of Karnataka to streamline the assessment procedure by simplifying the issuance of notices for limited one or two years for which assessment can be taken.
5. **Online generation of Statutory Forms:** Now since, filing the details of purchases and sales made compulsory, we suggest that the generation of Form "F" and Form "H" also be made online.

The genuine hardship faced by the business class and also in turn on the representing Chartered Accountants, we submit this Memorandum with a hope to get a kind consideration and relief in the coming Budget.

Thanking you,

Yours Sincerely,

For Karnataka State Chartered Accountants Association,

CA. Raveendra S. Kore
President