

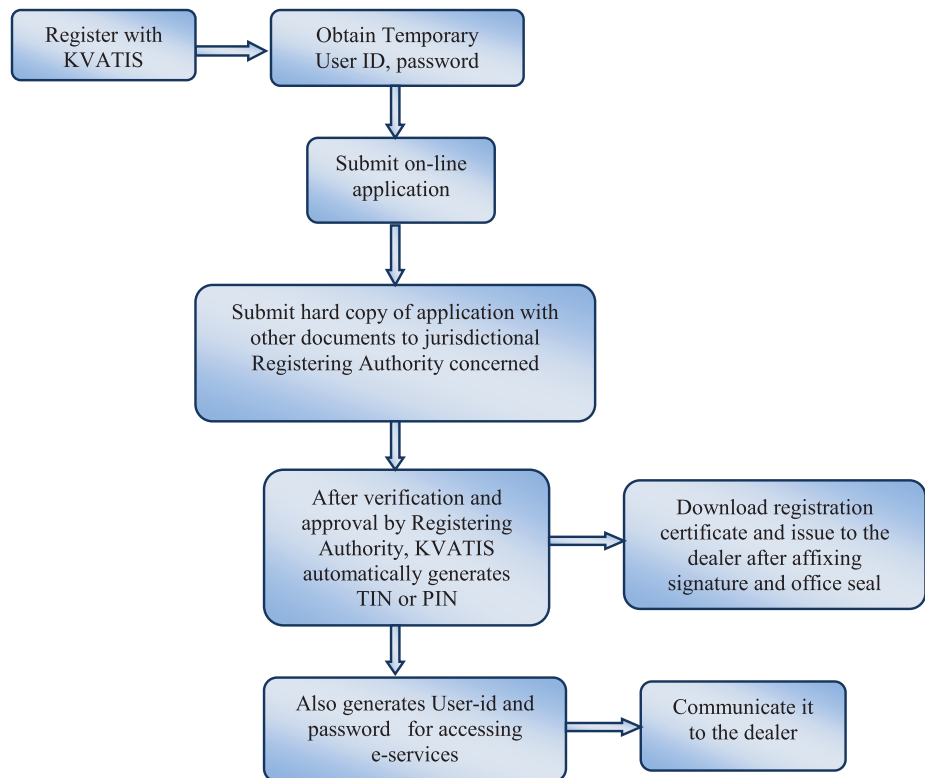
## CHAPTER-II : DEALER INFORMATION SYSTEM

### 2.1 Introduction

A unique registration number to identify a dealer and to trace all his transactions is the foundation of the VAT system. The assessing officer (Commercial Tax Officer/Assistant Commissioner) in charge of the Circle Office is the authority to grant/renew/revoke the registration. Dealer Information System (DIS) Module in KVATIS helps the assessing officer to manage various aspects of the registration, viz., initial registration, yearly renewal, collection of fees and security, cancellation, suspension etc. As there are three types of dealers under KVAT Act, 2003 and CST Act, 1956 KVATIS allots three types<sup>1</sup> of registration numbers.

### 2.2 Process automation

The Department has provided the facility for e-renewal of registration from April 2010 and introduced online facility for submission of application for registration from 01 April 2011. The process of on-line registration is as depicted below:



<sup>1</sup> (i) Tax Payers Identification Number (TIN) – allotted to dealers paying tax under Section 6(1) and 8 of the KVAT Act, 2003. (ii) Presumptive Tax Payers Identification Number (PIN) – allotted to dealers who are not importers or first sellers and opt to pay tax at concessional rate where the annual turnover is below ₹ 50/₹ 60 lakh under Section 6(5) of the KVAT Act 2003. (iii) Central Sales Tax Number (CST) – allotted to TIN dealers registered under CST Act, 1956 who undertake interstate transactions.

## **2.3 Registration**

### **2.3.1 Registration of new dealers**

Fifth proviso to Section 16 (1) of KVAT Act stipulates that a person shall not be entitled for more than one registration under the Act from 01 April 2007.

As per Section 2(xxxiii) of the Act, person includes, (a) an individual; (b) a joint family; (c) a company; (d) a firm; (e) an association of persons or a body of individuals, whether incorporated or not; (f) the Central Government or the Government of Kerala or the Government of any other State or any department thereof or a Union Territory in India; (g) a local authority; (h) every artificial juridical person not falling under any of the preceding sub clauses.

The system deficiencies noticed in the DIS module regarding the registration are discussed in the succeeding paragraphs.

### **2.3.2 Multiple Registrations**

The statutory ID available to identify a person in the system is the Permanent Account Number (PAN) issued by the income tax authorities. Audit extracted PAN details, furnished by the applicants for the registration under KVAT Act and found that multiple registrations ranging from two to eighteen were permitted by the system against a PAN as detailed in Table 1 below. The system did not record whether multiple registrations were duly authorized as per relevant clauses of the KVAT Act. It was also noticed that in some cases single PAN was used by different individuals for registrations.

**Table 1: Details of multiple registrations against single PAN**

<b>Nature of Registrations</b>	<b>No. of persons to whom multiple registrations granted</b>	<b>No. of registrations allowed</b>
TIN	2,238	4,681
PIN	1,786	3,827
<b>Total</b>	<b>4,025</b>	<b>8,508</b>

On this being pointed out, Government replied (April 2014) that as per Section 20(3) of the KVAT Act, Commissioner may, on application by the dealer, treat each of such places of business as a separate unit for the purposes of levy, assessment and collection of tax, as if, such places of business were a separate unit, and hence same business entity is permitted to take multiple registrations; in such cases even though the TIN is different PAN is unique, and pointed out specific instances where multiple TINs were issued against single PAN.

However, there were no controls in the system to ensure that only genuine registrations are permitted and the Government had not specified whether all the multiple TIN registrations pointed out were granted under Section 20(3) of the KVAT Act. Further, the reply was silent on the usage of single PAN by different individuals for obtaining registration.

The Government also stated that the suggestion to include a rule into KVATIS to allow unique PAN for every registration shall be factored while systematically allowing on specific permission, multiple registration on single

PAN in genuine verified cases. It was also stated that PAN validation has now been done.

### 2.3.3 Risk of non-mapping of business rule on multiple registration

As per Section 20(4), dealers who were granted multiple registrations are liable to pay tax if their combined turnover crosses the threshold limit of ₹ 10 lakh for TIN dealers. Further, Section 20(3) restricts the Commissioner from granting multiple registrations to Presumptive Tax paying Dealers<sup>2</sup>. Audit analysed the multiple registrations and found that non-mapping of the above provisions properly into the system enabled the dealers to keep their turnover below the threshold limit and evade tax as discussed below:

#### 2.3.3.1 TIN dealers evaded the tax liability by keeping the turnover against each registration below ₹10 lakh

Under the Act every dealer whose total turnover for a year exceeds ₹ 10 lakh shall pay tax at the rates prescribed in the schedules (Section 6(1)). Dealers are not entitled for more than one registration vide proviso 5 of the Section 16(1) of the Act. Based on application, Commissioner can treat each places of business as a separate unit for levy, assessment and collection of tax (Section 20(3)) and permit more than one registration. In such cases each place of business shall be liable to tax irrespective of the turnover provided the combined turnover exceeds ₹ 10 lakh. Audit observed that non mapping of business rules as stipulated in Section 20(4) of the Act into the application enabled the TIN dealers in evading tax by spreading over their turnover.

Audit extracted details of registrations and it was noticed that 270 TIN registrations were granted against 120 PAN enabling the dealers to keep their total turnover below ₹10 lakh, whereas the combined total turnover of a single dealer crossed the threshold limit of ₹ 10 lakh.

An illustrative example is given below:

PAN	TIN	Year	Turnover (₹)	Office
ABIPJ7008E	32150832175	2011	9,41,647	CTO, Angamaly
ABIPJ7008E	32150880472	2011	9,86,428	
			<b>19,28,075</b>	

To confirm the existence of multiple registrations under a single PAN, Audit subsequently verified (May 2014) the manual records with MIS report “Dealer complete details” in KVATIS and found that 74 TIN existed against 36 PAN. Non levy of tax in 110 assessment files in respect of the above 74 TIN worked out to ₹ 0.70 crore.

<sup>2</sup> Small and medium dealers who opt to pay tax at concessional rate of 0.5 per cent (sales turnover up to ₹ 60 lakh) under Section 6(5).

Further, as the dealers took multiple registrations and avoided payment of tax, penalty under Section 67<sup>3</sup> should have been imposed on them. The maximum penalty leviable worked out to ₹ 1.09 crore.

Government replied (April 2014) that if the combined turnover crosses the minimum turnover mentioned in Section 6, the assessing authority shall verify the books of accounts and complete the assessment manually. The Government also questioned the validity of the finding and integrity of analysed data. The matter was re-examined in audit and no data integrity issues were observed. The reply itself indicated that the KVATIS could not operate without combining with manual verification. Further, the system had no provision to capture the result of such manual verification.

Audit cross verified the details of assessments pointed out and found that the self assessment were not reopened in any of the 110 files of 74 dealers.

### **2.3.3.2 The Presumptive tax paying dealers continue to pay tax at presumptive rate by keeping the turnover below the limit of ₹ 50 lakh/₹ 60 lakh per year**

As per Section 6(5), a registered dealer who is not an importer<sup>4</sup> or other dealers specified therein and whose turnover is below ₹ 50 lakh/₹ 60 lakh may pay at his option tax at the rate of half *per cent* of the turnover of sale of taxable goods as presumptive tax instead of paying tax under Section 6(1).

Audit observed that 31 PIN registrations were granted against 15 PAN and that the turnover of each such registration being below ₹ 50 lakh/₹ 60 lakh during the years, those dealers were treated as presumptive dealers, though their aggregate turnover on each PAN, exceeded the threshold limit of ₹ 50 lakh/₹ 60 lakh. Section 20(3) of the KVAT Act restricts the grant of multiple registrations to presumptive dealers. This provision was not mapped to the system and hence the system wrongly admits payment of presumptive tax, where the turnover of the dealers crossed the threshold limit.

Government replied (April 2014) that the point raised is not valid as the data mining team of the Department has already reported the cases of presumptive dealers whose turnover crossed the threshold limit to the assessing authority for taking necessary action.

However, the justification of the Department is not valid as the re-examination (May 2014) in audit revealed that the cases pointed out were not reported by the data mining team for rectification. Regarding grant of 31 registrations against 15 PAN, the findings were from the database as on 22 May 2013. Audit verified the live data of the KVATIS of May 2014 and found 8 TIN issued against 4 PAN.

It was also found that no assessments were completed in the 14 assessment files relating to the above 8 dealers with resultant short levy of tax including interest therein amounting to ₹ 1.02 crore.

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<sup>3</sup> Under Section 67 of the KVAT Act, a penalty not exceeding twice the amount of tax evaded or sought to be evaded is leviable for offences specified in the Act

<sup>4</sup> Person who obtains or brings goods from any place outside the State or country

Further, as the dealers minimised the payment of tax taking multiple registrations, penalty under Section 67 is also leviable; which worked out to ₹ 1.56 crore.

### 2.3.4 Renewal of registration

#### 2.3.4.1 Non renewal of registration

As per Section 16(7), a certificate of registration issued shall be valid for a year and shall be renewed from year to year on payment of the fee of ₹ 500 in case of KVAT dealers and additional ₹ 1,000 for dealers having CST registration. The details regarding registration, cancellation and renewal during the period 2009-10 to 2012-13 are as described below:

**Table 2: Yearly statistics of registration, cancellation and renewal/non-renewal of registration under KVAT Act**

Year	Registered Dealers as on 1 April	No. of dealers registered during the year	No. of dealers cancelled their registration during the year	No. of live dealers as on 31 March (To be renewed next year)	No. of dealers renewed their registration next year	No. of dealers failed to renew their registration
1	2	3	4	5 (2+3-4)	6	7 (5-6)
Upto 2009-10	2,13,572 (upto 31 March 2010)		34,865	1,78,707	1,54,551	24,156
2010-11	1,78,707	20,207	9,106	1,89,808	1,64,592	25,216
2011-12	1,89,808	22,102	8,365	2,03,545	1,74,951	28,594
2012-13	2,03,545	23,565	8,242	2,18,868	1,69,992	48,876

**Table 3: Yearly statistics of registration, cancellation and renewal/ non-renewal of registration under CST Act**

Year	Registered Dealers as on 1 April	No. of dealers registered during the year	No. of dealers cancelled their registration during the year	No. of live dealers as on 31 March (To be renewed next year)	No. of dealers renewed their registration next year	No. of dealers failed to renew their registration
1	2	3	4	5 (2+3-4)	6	7 (5-6)
Upto 2009-10	64,346 (up to 31 March 2010)		3,190	61,156	60,620	536
2010-11	61,156	7,368	81	68,443	55,971	12,472
2011-12	68,443	8,424	113	76,754	64,493	12,261
2012-13	76,754	9,113	717	85,150	72,594	12,556

Audit found that the system permits transactions by the dealers who have not renewed their registration. It was noticed that 3,979 dealers who had not renewed their registration had effected interstate transactions. Further, 953 dealers filed return for their transactions during the non-renewed period and 1,946 dealers had effected sales to other registered dealers. Non-renewal of registration by such dealers in each year resulted in short collection of renewal fee of ₹ 0.74 crore<sup>5</sup>.

<sup>5</sup> Calculated @ ₹ 1,500 per renewal per year in case of 3,979 dealers who had effected interstate transactions and @ ₹ 500 per renewal per year in case of 2,899 dealers

In cases where the dealers failed to renew their registration, notices should have been generated by the system. Absence of this process control in the system indicated that business rules in this regard have not been mapped in the system properly.

On this being pointed out, Government stated (April 2014) that the audit point is not valid as there are various alerts in the system to prevent transactions like filing of returns/interstate trade by a dealer who failed to renew his registration.

This statement is not correct as the cases mentioned above were from the database provided to audit. This issue is still persisting. Audit re-verified (May 2014) the live data in KVATIS in respect of 16 dealers and found that they had not renewed their registration though they effected interstate transactions and failed to file return/pay tax.

#### **2.3.4.2 System allows cancelled dealers to renew their registration**

As per Section 16(7), the registration is valid for a year and shall be renewed yearly on payment of fee of ₹ 500 in the case of KVAT dealers and ₹ 1500 in the case of CST dealers. There is no provision in the statute for renewal of registration of dealers who cancelled their registration. A dealer whose registration is cancelled should obtain a fresh registration.

Out of the 2,79,446 registered dealers under KVAT Act (as on 31 March 2013) 60,578 dealers cancelled their registration. Audit found that 768 dealers who cancelled their registration renewed it without fresh application for registration. Out of this, 420 dealers are still in the list of live dealers (for the year 2013-14). This shows that the system does not have an inbuilt process control to prevent the renewal of cancelled registration.

On this being pointed out Government stated (April 2014) that some dealers were permitted to keep their registration live in order to download statutory forms against previous purchases or to submit annual return, closing stock inventory etc. The reply is not acceptable since these cancelled dealers not only have access to the system to download statutory forms, but could also renew their registration and were permitted to continue their business.

### **2.4 Security deposit for registration**

#### **2.4.1 Non renewal/revalidation of security instruments**

As per Section 17 of the KVAT Act, 2003, registration shall be granted only against furnishing adequate financial security to protect the interest of revenue considering the volume of the business of a dealer. Rule 19(2) of KVAT Rules provides that security may be furnished in any of the form such as deposit with treasury, Government securities, Post Office Saving Bank Deposit, Bank Guarantee, National Savings Certificate pledged and deposited with the authority. A Bank guarantee cannot be invoked if the same is not renewed on expiry of validity period. As such the system should alert the authorised officer and generate notices to the dealers whose Bank Guarantee had expired.

An extraction and analysis of data revealed that the validity of the Bank Guarantee furnished by 395 dealers aggregating to ₹ 3.49 crore had expired and the system permitted transactions by such dealers.

This indicates that necessary process controls were not built into the system to ensure the detection and timely renewal of expired Bank Guarantee.

On this being pointed out Government stated (April 2014) that receipts of bank guarantee are entered in the security register maintained in the assessing circle and renewal are done manually.

The reply is not acceptable as the data regarding validity of bank guarantee is available in KVATIS itself, the Department could have utilised this system controls instead of manual controls.

## **2.5 Conclusion**

Audit found that the Dealer Information System Module lacks in certain aspects:

- The system does not indicate whether the multiple registrations were duly authorised by the competent authority as provided under the Act.
- The risk of tax evasion by dealers having multiple registrations by keeping turnover under each registration below the threshold levels was found to be significant.
- The KVATIS allows dealers to transact business without renewing the registration and after cancellation of registration.
- The validity of Bank guarantee furnished as security for registration by many dealers though expired were not revalidated. This is not identified by the system for taking corrective action.

## **2.6 Recommendations**

- ❖ Business Rules regarding registration may be mapped properly to avoid acceptance of multiple registrations by the system unless specifically permitted by Commissioner of Commercial Taxes under Section 20(3).
- ❖ The system be updated to cover the risk of tax evasion by dealers having multiple registration, working out their aggregate turnover as specified in Section 20(4) of KVAT Act
- ❖ Department may conduct periodical analysis of dormant registration numbers, other than application for temporary stoppage of business (vide Section 16), and take timely action for issuing notices for renewal or otherwise cancel the registration of dealers who had no business transactions for more than two years, to avoid misuse of Registration Certificate.
- ❖ System should generate appropriate alerts for renewal of Bank guarantees before its date of expiry and while dealers are effecting transactions.
- ❖ Necessary modifications may be made to the system to adequately capture the results of manual verification done by Assessing Officers.