

Twelfth Kerala Legislative Assembly
Bill No. 208

THE KERALA COURT FEES AND SUITS VALUATION
(AMENDMENT) BILL, 2008

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further to amend the Kerala Court Fees and Suits Valuation Act, 1959.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Court Fees and Suits Valuation Act, 1959 for the purposes hereinafter appearing ;

BE it enacted in the Fifty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Court Fees and Suits Valuation (Amendment) Act, 2008.

(2) It shall come into force at once.

2. *Substitution of new section for section 52A.*—In the Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960) (hereinafter referred to as the principal Act), for section 52A, the following section shall be substituted, namely:—

“52A. *Fees on Memorandum of Appeal against the order of Income Tax Appellate Tribunal and Wealth Tax Appellate Tribunal.*—Notwithstanding anything contained in section 52, the fees payable on a memorandum of appeal filed before the High Court against the order of Income Tax Appellate Tribunal under the Income Tax Act, 1961 (Central Act 43 of 1961) and of the Wealth Tax Appellate Tribunal, under the Wealth Tax Act, 1957 (Central Act 27 of 1957), shall respectively be at the rates specified in sub-item (C) and (D) of item (iii) of Article 3 of Schedule II.”.

3. *Insertion of new section 69A.*—After section 69 of the principal Act, the following section shall be inserted, namely:—

“69A. *Refund in case where Court refers the dispute for settlement outside the Court under section 89 of the Civil Procedure Code.*—Where a suit is referred by the Court under section 89 of the Civil Procedure Code, 1908 (Central Act 5 of 1908) for arbitration, conciliation, judicial settlement, including

settlement through Lok Adalat or mediation, the whole fee paid on the plaint shall be ordered by the Court to be refunded to the parties concerned by whom the same has been paid.”.

4. *Amendment of Schedule II.*— In Schedule II of the principal Act,—

(1) in article 3, in sub-item (C) of item (iii),—

(a) the words and figures “or the Wealth Tax Act, 1957” in column (2) shall be omitted ;

(b) for the words “Five hundred rupees” in column (3) against clause (d) in column (2), the words “Ten per cent of relief sought for, subject to a minimum of five hundred rupees” shall be substituted ;

(c) after sub-item (C) in column (2) and the entries against it in column (3), the following sub-item and entries shall respectively be inserted, namely:—

“(D) From an order of the Appellate Tribunal under the Wealth Tax Act, 1957,—

(a)	Where the total net wealth of the assessee as computed by the Assessing Officer, in the case to which the appeal relates is one lakh rupees or less	Five hundred rupees
(b)	Where such net wealth exceeds one lakh rupees but does not exceed two lakhs rupees	One thousand and five hundred rupees
(c)	Where such net wealth exceeds two lakh rupees	One per cent of the assessed net wealth, subject to a maximum of ten thousand rupees
(d)	Where the subject matter of an appeal relates to any matter, other than those specified in sub-clauses (a) to (c) above	Ten per cent of the relief sought for, subject to a minimum of five hundred rupees.”;

(2) in article 4, for the words and figures “under Section 39 of the Arbitration Act, 1940” in column (2), the words and figures “under Arbitration and Conciliation Act, 1993” shall be substituted;

(3) in article 10, for clause (g) in column (2) and the entries relating thereto in column (3), the following clause and entries shall respectively be substituted, namely:—

“(g) Application for attestation of private documents intended to be used outside India,—

- (i) which involves verification of genuineness of the document Fifty rupees
- (ii) which requires counter signature after attestation by a Notary Twenty five rupees.”.

STATEMENT OF OBJECTS AND REASONS

Section 52 A of the Kerala Court Fees and Suits Valuation Act, 1959 provides that the fee payable on Memorandum of Appeal filed before the High Court against the order of Income Tax Appellate Tribunal or the Wealth Tax Tribunal under the Income Tax Act, 1961 (Central Act 43 of 1961) or the Wealth Tax Act, 1957 (Central Act 27 of 1957), as the case may be, shall be at the rate prescribed in sub-item (C) of item (iii) of Article 3 of Schedule II. It is decided to substitute a new section for section 52A and amend article 3 (iii) (C) and article 3 (iii) (C) (d) in the Schedule II of the Kerala Court Fees and Suits Valuation Act, 1959 (Act 10 of 1960) to fix the court fee for Memorandum of Appeal to the High Court from the Appellate Tribunal under the Income Tax Act, 1961, in accordance with the total income as computed by the Assessing Officer and relief sought and insert sub-item (D) to article 3 (iii) in Schedule II of the said Act to fix the court fee, for Memorandum of Appeal to the High Court from the Appellate Tribunal under the Wealth Tax Act, 1957, in accordance with the net wealth of the assessee as computed by the Assessing Officer and relief sought. The amendments are made to clear the doubts pointed out by the Honourable High Court in ITA No. 18/03.

2. Section 69 of the Kerala Court Fees and Suits Valuation Act, 1959 provides that when a suit or appeal is compromised or when a suit is decided solely on the admission of parties without any investigation, one half of the court fees paid on the plaint or Memorandum of Appeal shall be ordered by the Court to be refunded to the parties by whom the same has been paid respectively. Though section 16 of the Court Fees Act, 1870 (Central Act 7 of 1870) provides for refund of the full amount of court fee paid, where the court refers parties to any mode of settlement referred to in section 89 of Civil Procedure Code, 1908 (Central Act 5 of 1908), the existing provision in the

Kerala Court Fees and Suits Valuation Act, 1959 provides for the refund of only one half of the court fees paid on the plaint or memorandum of appeal in cases of compromise or when a suit is decided solely on admission of the parties without any investigation. The Honourable High Court in Vasudevan Vs. State of Kerala [2003 (3) KLT 670] has held that since the refund of court fees is governed by section 16 of the Court Fees Act, 1870 read with section 21 of the Legal Services Authorities Act, 1987 (Act 39 of 1987), the whole of the court fees paid is to be refunded. In O.B. Aboobacker Vs. District Collector, Palakkad [2006 (3) KLT 670] the Honourable High Court has directed to effect necessary amendment to the Kerala Court Fees and Suits Valuation Act, 1959 for refund of the entire court fees when a compromise or settlement has been arrived at Lok Adalat in a case referred to it under sub-section (1) of section 21 of the Legal Services Authorities Act, 1987. In order to comply with the directions of the High Court, Government considered it necessary to insert a new provision for the refund of the full court fees paid in tune with the provisions in the Court Fees Act, 1870 and the Legal Services Authorities Act, 1987.

3. Article 4 of Schedule II to the Kerala Court Fees and Suits Valuation Act, 1959 provides for the amount of court fees paid on the Memorandum of Appeal under section 39 of the Arbitration Act, 1940. The Arbitration Act, 1940 has been repealed by the Arbitration and Conciliation Act, 1996 (Central Act 26 of 1996). Hence Article 4 of Schedule II to the Kerala Court Fees and Suits Valuation Act, 1959 has to be amended by replacing the words “Arbitration Act 1940” with the words “Arbitration and Conciliation Act, 1996”.

4. Clause (g) in Article 10 of Schedule II of the Kerala Court Fees and Suits Valuation Act, 1959 prescribes an amount of Rs. 10 for attestation of private document intended to be used outside India. Most of the above documents are to be attested by the State Home Department. In a proposal put forward by the State Home Department it was decided to enhance the court fee payable on attestation of private documents intended to be used outside India. In the case of applications which involve genuineness of the document the court fee is proposed to be enhanced to one hundred rupees and in the case of application which require counter signature after attestation by a Notary the court fees is proposed to be fixed as fifty rupees. Though it was decided to make amendments in clause (g) of column (2) of Article 10 of Schedule II and entries connected therewith and a Bill for the above purpose namely, the Kerala Court Fees and Suits Valuation (Amendment) Bill, 2005 was published as Bill No. 308 of the 11th Kerala Legislative Assembly, the same has been lapsed by virtue of Article 196 (5) of the Constitution on the dissolution of the 11th Kerala Legislative Assembly. Now Government have decided to increase the court fees

from Rs. 10 to Rs. 50 for application for attestation of private documents intended to be used outside India, which involves verification of genuineness of the document and to fix a court fee of Rupees 25 payable on application which requires countersignature after attestation by a Notary.

5. In order to give statutory validity to the enhanced rate it is decided to amend the entry in article 10(g) in Schedule II to the Kerala Court Fees and Suits Valuation Act, 1959.

6. The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

Section 69A of the Act proposed to be inserted by clause 3 of the Bill, provides for the refund of full court fees paid on the plaint to the parties concerned, in cases where a suit is referred by the Court under section 89 of the Code of Civil Procedure, 1908 for arbitration, conciliation, judicial settlement, including settlement through Lok Adalat or mediation. Hence the Bill when enacted and brought into operation would involve expenditure from the Consolidated Fund of the State. The anticipated recurring expenditure in this account would be Rs. 150 lakhs.

M. VIJAYA KUMAR.

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| (i) to any Court other than the High Court or to the Board of Revenue or the Chief Executive Authority or to any Executive Officer | Ten rupees |
| (ii) ** ** ** | |
| (iii) to the High Court— | |
| (A) From an order other than an order under the Kerala Agriculturists Debt Relief Act, 1958 | |
| (1) Where the order was passed by a Subordinate Court or other authority— | |
| (a) If the order relates to a suit or proceeding, the value of which exceeds one thousand rupees | Twenty five rupees |
| (b) In any other case | Ten rupees |
| (2) Where the appeal is under Section 5 of the Kerala High Court Act, 1958— | Ten rupees |
| (a) From an order passed in exercise of appellate jurisdiction | Twenty five rupees |
| (b) From an order passed in exercise of original jurisdiction, which would be appealable under the Code of Civil Procedure, 1908, had it been passed by a Subordinate Court | Twenty five rupees |
| (c) In any other case | Two hundred rupees per appellant |
| (3) Where the appeal is under Section 45-B of the Banking Companies Act, 1949 | Two hundred and fifty rupees |

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| (4) Where the appeal is under Section 411-A of the Code of Criminal Procedure, 1898. | Ten rupees |
| (B) From an order under the Kerala Agriculturists Debt Relief Act, 1958 | Five rupees |
| (C) From an order of the Appellate Tribunal under the Income Tax Act, 1961 or the Wealth Tax Act, 1957,— | |
| (a) Where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates is one lakh rupees or less | Five hundred rupees |
| (b) Where such income exceeds one lakh rupees but does not exceed two lakh rupees | One thousand and five hundred rupees |
| (c) Where such income exceeds two lakhs rupees | One per cent of the assessed income, subject to a maximum of ten thousand rupees |
| (d) Where the subject matter of an appeal relates to any matter, other than those specified in sub-clauses (a) to (c) above | Five hundred rupees |
| (iv) to the Government in pursuance of a statutory right to appeal for which no Court-fee is leviable under any other enactment | Twenty five rupees |

4. Memorandum of appeal under Section 39 of the Arbitration Act, 1940—
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| (i) Where the appeal is from an order of a Munsiff's Court or an order of a superior Court in a case where the value for the purpose of jurisdiction does not exceed rupees fifteen thousand | Fifty rupees |
| (ii) in other cases where the amount or value of the subject matter— | |
| (a) does not exceed rupees one lakh, for every hundred rupees, or part thereof, upto rupees one lakh | Two rupees |
| (b) exceeds rupees one lakh for every hundred rupees, or part thereof, in excess of rupees one lakh upto rupees five lakhs | Four rupees |
| (c) exceeds rupees five lakhs, for every hundred rupees, or part thereof, in excess of rupees five lakhs. | One rupees |
| ** | ** |
| 10. (a) Application or petition presented to any Officer of land revenue by any person holding temporarily settled land under direct engagement with Government and when the subject-matter of the application or petition relates exclusively to such engagement | Two rupees |

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| (b) | Application or petition presented to any officer of land revenue relating to the grant of land on darkhast or assignment of land | Two rupees |
| (c) | Application to a Collector for lease of land for agricultural or non-agricultural purposes. | Five rupees |
| (d) | Application or petition presented to any Executive Officer, under any Act for the time being in force for the conservancy or improvement of any place if the application or petition relates solely to such conservancy or improvement | Five rupees |
| (e) | Application or petition presented to any Board or Executive Officer for a copy or translation of any order passed by such Board or officer or of any other document on record in such office | Five rupees |
| (f) | Application to a Forest Officer by a forest contractor for extension of the period of lease | |
| ⁷³ (i) | if the value of the subject-matter of the lease is rupees Twenty-five thousand or less | One hundred rupees |

- (ii) if such value exceeds rupees twenty-five thousand, for every rupees thousand or part thereof, in excess of rupees twenty-five thousand Twenty rupees

- (g) Application for attestation of private documents intended to be used outside India. Ten rupees

- (h) ** ** **

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