

Twelfth Kerala Legislative Assembly
Bill No. 254

THE KERALA FINANCE BILL, 2009

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BILL

to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2009-2010.

Preamble.—WHEREAS, it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2009-2010.

BE it enacted in the Sixtieth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Finance Act, 2009.

(2) Sub-sections (1) (i), (2) and (5) to (9) of section 4, sub-sections (1), (2) and (5) to (7) of section 5, sub-sections (1) to (5) and (7) to (15) of section 6 and sub-sections (1), (2), (15) to (19) and (25)(iv) (b) of section 7 shall come into force on such date as the Government may, by notification in the Gazette, appoint and the remaining provisions shall come into force on the 1st day of April, 2009.

2. *Amendment of Act 11 of 1957.*—In the Kerala Surcharge on Taxes Act, 1957 (11 of 1957), after section 3A, the following section shall be inserted, namely :—

“3B. *Reduction of arrears in case of public sector undertakings.*—(1) Notwithstanding anything contained in this Act, or in any judgment, decree or order of any court, tribunal or appellate authority, an assessee which is a public sector undertaking and which is in arrears of tax or any other amount due under this Act relating to the period ending on 31st March, 2005, may opt for settling the arrears by availing reduction at the following rates :—

(a) a complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon ; and

(b) in the case of public sector undertakings which are running in profit, reduction in fifty percent of the principal amount ; and

(c) in the case of public sector undertakings which are running at loss, a reduction in seventy-five percent of the principal amount :

Provided that public sector undertakings, the landed property of which are likely to be sold in execution of any judgment, decree or order of any court, tribunal or other authority shall not be eligible to opt under this scheme.

(2) A public sector undertaking which wishes to opt for payment of arrears under sub-section (1) shall make an application to the assessing authority in the prescribed form before 30th June, 2009, or on such date as may be notified by the Government.

(3) On receipt of an application under sub-section (2), the assessing authority shall verify the same and shall intimate the amount to the assessee, and thereupon they shall remit twenty five percent of the amount within 15 days of receipt of the intimation and the balance amount in three equal monthly instalments starting from the subsequent month.

(4) If the assessee commits any default in payment of the instalments, the reduction allowed under sub-section (1) is liable to be revoked.

(5) No action under sub-section (4) shall be taken without giving notice to the assessee.

(6) If the amount settled under this provision has been the subject matter of an appeal or revision, such appeal or revision may be continued and if the final orders of such appeal or revision results in the reduction of tax payable under this Act, the amount so reduced shall be refunded. But if, as the result of such appeal or revision, the tax payable under this Act is enhanced, the assessee shall pay such enhanced amount with interest thereon, in accordance with the provisions of this Act.”.

3. *Amendment of Act 17 of 1959.*—In the Kerala Stamp Act, 1959 (17 of 1959), in sub-section (1) of section 9, after clause (b), the following clause shall be inserted, namely :—

“(c) provide for compounding of duties payable on the instruments referred to the Collector or called for by him under sections 45A, 45B or 45C at such rate and for such period as may be specified by the Government.”.

4. *Amendment of Act 15 of 1963.*—In the Kerala General Sales Tax Act, 1963 (15 of 1963),—

(1) in section 2,—

(i) clause (i) shall be omitted ;

(ii) in clause (xvii), the words “and includes ethanol blended petrol” shall be added at the end ;

(2) in section 3,—

(i) in sub-section (2), the words “Appellate Assistant Commissioners” shall be omitted ;

(ii) the proviso to sub-section (3) shall be omitted ;

(3) in section 17,—

(i) for the fourth proviso to sub-section (6), the following proviso and Explanation shall be substituted, namely :—

“Provided also that the assessment relating to the years up to and including the year 2004-05 pending as on 31st March, 2009 shall be completed on or before the 31st day of March, 2010.

*Explanation:—*For the purpose of the above proviso, it is clarified that the extension of time granted for completion of assessments is applicable in all cases where regular assessments have not been completed before the date fixed for completion of assessment in the respective years.”;

(ii) in sub-section (8),—

(a) for the first proviso, the following proviso shall be substituted, namely :—

“Provided that all such assessments or re-assessments pending as on 31st March, 2009 shall be completed on or before 31st March, 2010.”;

(b) for the third proviso, the following proviso shall be substituted, namely :—

“Provided also that all such modified assessments or modified reassessments or remanded assessments pending as on 31st March, 2009 shall be completed on or before 31st March, 2010.”;

(4) after section 23B, the following section shall be inserted, namely :—

“23BA. *Reduction of arrears in respect of public sector undertakings.*— (1) Notwithstanding anything contained in this Act, or in any judgment, decree or order of any court, tribunal or appellate authority, an assessee which is a public sector undertaking and which is in arrears of tax or any other amount due under this Act relating to the period ending on

31st March, 2005, may opt for settling the arrears by availing reduction at the following rates :—

(a) a complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon ; and

(b) in the case of public sector undertakings which are running in profit, reduction in fifty percent of the principal amount ; and

(c) in the case of public sector undertakings which are running at loss, reduction in seventy-five percent of the principal amount :

Provided that public sector undertakings, the landed properties of which are likely to be sold in execution of any judgment, decree or order of any court, tribunal or other authority shall not be eligible to opt under this scheme.

(2) A public sector undertaking which wishes to opt for payment of arrears under sub-section (1) shall make an application to the assessing authority in the prescribed form before 30th June, 2009, or on such date as may be notified by the Government.

(3) On receipt of an application under sub-section (2), the assessing authority shall verify the same and shall intimate the amount to the assessee, and thereupon they shall remit twenty five percent of the amount within 15 days of receipt of the intimation, and the balance amount in three equal monthly instalments starting from the subsequent month.

(4) If the assessee commits any default in payment of the instalments, the reduction allowed under sub-section (1) is liable to be revoked.

(5) No action under sub-section (4) shall be taken without giving notice to the assessee.

(6) If the amount settled under this provision has been the subject matter of an appeal or revision, such appeal or revision may be continued and if the final orders of such appeal or revision results in the reduction of tax payable under this Act, the amount so reduced shall be refunded. But if, as the result of such appeal or revision, the tax payable under this Act is enhanced, the assessee shall pay such enhanced amount with interest thereon, in accordance with the provisions of this Act.”;

(5) section 34 shall be omitted ;

(6) in section 36, in sub-section (1), the words and figures “section 34 or” shall be omitted ;

(7) in section 37,—

(i) in sub-section (1), the words “other than an Appellate Assistant Commissioner” shall be omitted ;

(ii) in sub-section (2), the words “the Appellate Assistant Commissioner or” shall be omitted ;

(8) in section 39,—

(i) for sub-sections (1) and (2), the following sub-sections shall respectively be substituted, namely :—

“(1) Any person objecting to an order affecting him passed by an appropriate authority under sub-section (6) or sub-section (7) of section 14, section 14A, sub-section (2) or sub-section (3) or sub-section (4) or sub-section (4A) of section 17, sub-section (1) or sub-section (2) of section 19, sections 19A, 19B, 19C, 26, 29, 29A, 30, 30A, or an order passed by a lower authority under section 43 and section 45A and any person objecting to an order passed by the Deputy Commissioner under sub-section (1) of section 35, may within a period of sixty days from the date on which the order was served on him in the manner prescribed, appeal against such order to the Appellate Tribunal :

Provided that the Appellate Tribunal may admit an appeal after the expiration of the said period if it is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period.

(2) All appeals together with the interlocutory applications, if any, pending for disposal before any appellate authority under this Act as on the date of commencement of this provision shall stand transferred to the Appellate Tribunal and the Appellate Tribunal shall consider the same as if it is an appeal filed before it.”;

(ii) after sub-section (2), the following sub-sections shall be inserted, namely :—

“(2A) No appeal under this section shall be entertained unless at the time of presenting the appeal, the assessee has furnished satisfactory proof of payment of tax due on the turnover admitted by him.

(2B) The authority by whom the order appealed against had been passed or any officer empowered by the Government in this behalf, as the case may be, on receipt of notice that an appeal has been preferred under sub-section (1), may file within thirty days of receipt of the notice, a memorandum of cross objections, which shall be considered by the Appellate Tribunal while disposing of the appeal.”;

(9) in section 45A, in sub-sections (1) and (3), the words “or the Appellate Assistant Commissioner” shall be omitted.

5. *Amendment of Act 32 of 1976.*—In the Kerala Tax on Luxuries Act, 1976 (32 of 1976),—

(1) in section 2, clause (a) shall be omitted ;

(2) in section 3,—

(i) sub-section (2) shall be omitted ;

(ii) the proviso to sub-section (3) shall be omitted ;

(3) in section 4,—

(i) in the proviso to sub-section (1), the words “and to the retiring rooms and dormitories in the railway stations, managed by Indian Railways” shall be added at the end ;

(ii) sub-section (5) shall be omitted ;

(4) in section 5A, in sub-section (3), the following proviso shall be inserted, namely :—

“Provided that the last date for filing an application under this section for the year 2008-09 shall be 15th March, 2009.”;

(5) section 7 shall be omitted ;

(6) in section 7A,—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Any person aggrieved by an order of assessment made or a penalty levied under section 6, sub-sections (7) and (8) of section 12A, sub-section (8) of section 13 or section 17A may within sixty days from the date on which the order was served on him, appeal against such order, for the annulment or modification of the assessment or penalty to the Appellate Tribunal in such manner as may be prescribed :

Provided that the Appellate Tribunal may admit an appeal presented after the expiry of the said period if it is satisfied that the appellant has sufficient cause for not presenting the appeal within the said period.”;

(ii) after sub-section (4), the following sub-section shall be inserted, namely :—

“(5) All appeals together with interlocutory applications, if any, pending for disposal before any Appellate Authority under this Act as on the

date of commencement of this provision shall stand transferred to the Appellate Tribunal and the Appellate Tribunal shall consider the same as if it is an appeal filed before it.”;

(7) in section 8, in sub-section (3), for the word and figure “section 7”, the word, figure and letter “section 7A” shall be substituted ;

(8) in section 10, the existing section shall be renumbered as sub-section (1) and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

“(2) Where any proprietor, dealer or any other person has failed to include any charges or any other amount taxable under this Act with respect to any luxury provided in any return filed or where any charges or any other amount taxable under this Act or tax due has escaped assessment, interest under sub-section (1) shall accrue on the tax due on such charges or other amount or tax with effect from such date on which the tax would have fallen due for payment, had the proprietor, dealer or any other person included such charges or other amount taxable under this Act or tax in the return relating to the period to which such charges or other amount relates.”;

(9) the existing section 10A shall be renumbered as section 10AA and before section 10AA as so renumbered, the following section shall be inserted, namely :—

“10A. *Recovery of tax.*—(1) Any amount of tax, penalty, interest and any other amount payable by any person under this Act and remaining unpaid shall be the first charge on the property of such person and may be recovered as an arrear of public revenue due on land.

(2) Government may, by notification in the Gazette, appoint any assessing authority under this Act to exercise the functions of a Collector under the Kerala Revenue Recovery Act, 1968 (15 of 1968) for the recovery of arrears under this Act.

(3) Notwithstanding anything contained in any other law for the time being in force, an officer appointed under sub-section (2) shall be deemed to be a Collector within the meaning of clause (c) of section 2 of the Kerala Revenue Recovery Act, 1968 (15 of 1968).”;

(10) for section 17B, the following section shall be substituted, namely :—

“17B. *Composition of offences.*—(1) The assessing authority or other officer or authority authorized by the Government in this behalf may accept from

any person or proprietor who has committed or is reasonably suspected of having committed an offence in contravention of the provisions of this Act, by way of compounding of such offence,—

(a) where the offence consists of the evasion of any tax payable under this Act, in addition to the tax so payable, a sum of money equal to the amount of tax so payable subject to a minimum of rupees five hundred and maximum of rupees four lakhs; and

(b) in other cases, a sum of money not exceeding ten thousand rupees.

(2) On payment of such amount under sub-section (1), no further penal or prosecution proceedings shall be taken against such person or proprietor in respect of that offence.”.

6. *Amendment of Act 15 of 1991.*—In the Kerala Agricultural Income Tax Act, 1991 (15 of 1991),—

(1) in section 2, clause (5) shall be omitted ;

(2) in section 24, in sub-section (1), clause (d) shall be omitted ;

(3) in section 25, the proviso to sub-section (1) shall be omitted ;

(4) in section 27, in sub-section (1), the words and brackets “the Deputy Commissioner (Appeals)” shall be omitted ;

(5) in section 29, the words and brackets “or the Deputy Commissioner (Appeals)”, wherever they occur, shall be omitted ;

(6) after section 37B, the following section shall be inserted, namely :—

“37C. *Reduction of arrears in certain cases.*—(1) Notwithstanding anything contained in this Act, or in any judgment, decree or order of any court, tribunal or appellate authority, an assessee who is in arrears of tax or any other amount due under this Act relating to the period ending on 31st March, 2005, may opt for settling the arrears by availing reduction at the following rates :—

(a) in the case of demands relating to the period up to and including 31st March, 1991, a reduction of twenty five percent for the principal tax amount, and complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon ;

(b) in the case of demands relating to the period from 1st April, 1991 to 31st March, 1996, a complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon ;

(c) in the case of demands relating to the period from 1st April, 1996 to 31st March, 2000, a reduction of ninety-five percent of the interest on the tax amount and for the amount of penalty and interest thereon ;

(d) in the case of demands relating to the period from 1st April, 2000 to 31st March, 2005, a reduction of ninety percent of the interest on the tax amount and for the amount of penalty and interest thereon ;

(e) in cases where principal amount has already been remitted prior to coming into force of section 91A of the Act, a reduction of ninety percent of the interest amount.

(2) Notwithstanding anything contained in the Kerala Revenue Recovery Act, 1968 reduction of arrears under sub-section (1) shall be applicable to those cases in which revenue recovery proceedings have been initiated and the assessing authorities shall have the power to collect such amounts on settlement under sub-section (1) and where the amount is settled under sub-section (1) the assessing authorities shall withdraw the revenue recovery proceedings against such assesseees which will then be binding on the revenue authorities and such assesseees shall not be liable for payment of any collection charges.

(3) An assessee who wishes to opt for payment of arrears under this section shall make an application to the assessing authority in the prescribed form before 30th June, 2009, or on such date as may be notified by the Government.

(4) On receipt of an application under sub-section (3), the assessing authority shall verify the same and shall intimate the amount to the assessee, and thereupon the assessee shall remit twenty-five percent of the amount within 15 days of receipt of the intimation, and the balance amount in three equal monthly instalments from the subsequent month.

(5) If the assessee commits any default in payment of the instalments the reduction granted under sub-section (1) is liable to be revoked.

(6) No action under sub-section (5) shall be taken without giving notice to the assessee.

(7) If the amount settled under this provision has been the subject matter of an appeal or revision, such appeal or revision may be continued and if the final orders of such appeal or revision results in the reduction of tax payable under this Act, the amount so reduced shall be refunded. But if, as the result of such appeal or revision, the tax payable under this Act is enhanced, the dealer shall pay such enhanced amount with interest thereon, in accordance with the provisions of this Act.”;

(7) in section 43, in the Explanation, the words and brackets “the Deputy Commissioner (Appeals) or” shall be omitted ;

(8) in section 71, the words “the Appellate Assistant Commissioner” shall be omitted ;

(9) section 72 shall be omitted ;

(10) in section 74,—

(i) in sub-section (1), for clause (a) the following clause shall be substituted, namely :—

“(a) an order passed by the Agricultural Income Tax Officer or the Inspecting Assistant Commissioner.”;

(ii) for sub-section (2), the following sub-section shall be substituted, namely :—

“(2) No appeal under this section shall be admitted unless at the time of presenting the appeal, the assessee has paid the tax due on the agricultural income admitted by him.”;

(iii) for sub-section (4), the following sub-section shall be substituted, namely :—

“(4) On receipt of notice that an appeal against his order has been preferred the assessing authority or an officer authorised in this behalf by the Government may within thirty days of the receipt of the notice, file a memorandum of cross objections and the Appellate Tribunal shall consider the same while disposing of the appeal.”;

(iv) in sub-section (6), the words, brackets and figures “except in the case of an appeal referred to in sub-section (2) or a memorandum of cross objections referred to in sub-section (4)” shall be omitted ;

(v) in the Explanation to sub-section (7), the words, brackets and figure “appeal or” and “under sub-section (2)” shall be omitted ;

(vi) sub-section (8) shall be omitted ;

(vii) after sub-section (13), the following sub-section shall be inserted, namely :—

“(14) All appeals together with the interlocutory applications, if any, pending for disposal before the appellate authority on the date of commencement of this provision shall stand transferred to the Appellate Tribunal and the Appellate Tribunal shall consider the same as if it is an appeal filed before it.”;

(11) in section 75,—

(i) in sub-section (1), the words and brackets “other than a Deputy Commissioner (Appeals)” shall be omitted ;

(ii) in sub-section (2), the words and brackets “the Deputy Commissioner (Appeals) or” shall be omitted ;

(12) in section 76,—

(i) in sub-section (1), the words and brackets “including a Deputy Commissioner (Appeals)” shall be omitted ;

(ii) in sub-section (2), the words and brackets “the Deputy Commissioner (Appeals) or” shall be omitted ;

(13) in section 78A, item (a) and the entries against it shall be omitted ;

(14) in section 79,—

(i) in sub-section (1), the words and brackets “the Deputy Commissioner (Appeals)” shall be omitted ;

(ii) in sub-section (5), the words and brackets “the Deputy Commissioner (Appeals)” shall be omitted ;

(15) section 96 shall be omitted.

7. *Amendment of Act 30 of 2004.*—In the Kerala Value Added Tax Act, 2003 (30 of 2004),—

(1) in section 2, clause (xvii) shall be omitted ;

(2) in section 3,—

(i) in sub-section (3), the words and brackets “Deputy Commissioner (Appeals)” shall be omitted ;

(ii) the proviso to sub-section (4) shall be omitted ;

(3) in section 6,—

(i) in sub-section (5), after the fourth proviso, the following proviso shall be inserted, namely :—

“Provided also that dealers covered under this sub-section whose total turnover for a year is below rupees twenty lakhs, shall pay a lump-sum amount of rupees three thousand annually as presumptive tax, and the payment shall be at the rate of rupees seven hundred and fifty per quarter along with a statement as may be prescribed. Such dealers shall also file an annual declaration as may be prescribed.”;

(ii) in sub-section (7), in sub-clause (a) the word “exclusively” shall be omitted ;

(4) in section 8,—

(i) in clause (a),—

(a) for sub-clause (ii), the following sub-clause shall be substituted, namely :—

“(ii) any works contractor not falling under clause (i) above may, at his option, instead of paying tax in accordance with the provisions of the said section, shall pay tax at three percent of the contract amount after deducting the purchase value of goods excluding freight and gross profit element consigned into the State on stock transfer or purchased from outside the State and for the purchase value of goods so deducted shall pay tax at the scheduled rate applicable to such goods.”;

(b) after the fourth proviso, the following proviso shall be inserted, namely :—

“Provided also that notwithstanding anything contained in this Act, in cases of works which commenced prior to 1st April, 2008 and which remains partly unexecuted as on 1st April, 2008, the contractor shall pay tax at the rates as it existed prior to 1st April, 2008 till the completion of work, or up to 31st March, 2009, whichever is earlier.”;

(c) the existing Explanation shall be renumbered as Explanation 1, and after the Explanation as so renumbered, the following Explanation shall be inserted, namely:-

“*Explanation 2*:—Notwithstanding anything contained in any other Act, a dealer who had surrendered his registration and unused declaration forms under the Central Sales Tax Act, 1956 (74 of 1956), before the assessing authority on or before 31st March, 2008 and who does not have any closing stock of materials purchased interstate as on 31st March, 2008 or who pays tax on such closing stock at scheduled rates, shall be eligible for paying compounded tax under sub-clause (i) of this clause, for the year 2008 -2009.”;

(ii) in clause (b),-

(a) in sub-clause (i), for the letters, figures and words “Rs.50,000 per annum”, the letters, figures and words “Rs. 40,000 per annum” shall be substituted ;

(b) in sub-clause (ii), for the letters, figures and words “Rs. 1,60,000 per annum”, the letters, figures and words “Rs. 1,50,000 per annum” shall be substituted ;

(c) in sub-clause (iii), for the letters, figures and words “Rs. 3,20,000 per annum”, the letters, figures and words “Rs. 3,00,000 per annum” shall be substituted ;

(d) in sub-clause (iv), for the letters, figures and words “Rs. 7,50,000 per annum”, the letters, figures and words “Rs. 10,00,000 per annum” shall be substituted ;

(e) after the existing proviso, the following proviso shall be inserted, namely :—

“Provided further that dealers with a single crusher other than cone crusher shall pay rupees twenty-five thousand only per annum as tax under this clause.”;

(f) for the Explanation, the following Explanation shall be substituted, namely :—

“*Explanation* :—For the purpose of this clause, primary crushers shall also be reckoned for the purpose of computation of compounded tax, and the rate applicable to primary crushers shall be at fifty percent of the aggregate of the tax payable on secondary crushers.”;

(iii) in clause (c),—

(a) in sub-clause (i), the following Explanation shall be inserted, namely :—

“*Explanation* :—Cooked food for the purpose of this clause shall include sweets prepared and served in the restaurants and hotels.”;

(b) in sub-clause (ii), for the words “cigarettes and soft drinks”, the words “cigarettes, soft drinks and other goods” shall be substituted ;

(iv) in clause (f),—

(a) for sub-clause (i), the following sub-clause shall be substituted, namely :—

“(i) any dealer in ornaments or wares or articles of gold, silver or platinum group metals including diamond may at his option, instead of paying tax in respect of such goods in accordance with the provisions of section 6, pay tax at,—

(a) one hundred and fifteen percent, in case their annual turnover for the above goods for the preceding year was rupees ten lakhs or below ;

(b) one hundred and twenty percent, in case their annual turnover for the above goods for the preceding year was above rupees ten lakhs and upto rupees forty lakhs ;

(c) one hundred and thirty-five percent; in case their annual turnover for the above goods for the preceding year was above rupees forty lakhs and upto rupees one crore; and at

(d) one hundred and fifty percent; in case their annual turnover for the above goods for the preceding year exceeded rupees one crore ;

of the highest tax payable by him as conceded in the return or accounts, or tax paid by him under this Act, whichever is higher, for a year during any of the three consecutive years preceding that to which such option relates.”;

(b) for Explanation 2, the following Explanation shall be substituted, namely :—

“*Explanation 2*:—Where during any such preceding year, the dealer had not transacted business for any period in that financial year, the tax payable for the twelve months shall be calculated proportionately on the basis of the tax payable or the turnover conceded, as the case may be, for the period during which such dealer had transacted business.”;

(c) in Explanation 3, for the words “previous to the year in which the option relates”, the words “to which the option relates” shall be substituted ;

(d) for Explanation 4, the following Explanation shall be substituted, namely :—

“*Explanation 4* :—Where a dealer has not opted to pay compounded tax with respect to a new branch opened in 2008-09, the compounded tax payable for such branch for the year 2008-09 shall be notionally fixed as the average of the compounded tax paid for the principal place and branches in that year and if the new branch opened is the first branch, the compounded tax payable for it shall be the same as that payable for the principal place of business.”;

(e) in Explanation 5, the last sentence shall be omitted ;

(f) after Explanation 6, the following Explanation shall be inserted, namely :—

“*Explanation 7.*—Tax payable as conceded in the accounts includes the tax payable on suppressed turnover subsequently detected also.”;

(5) in section 11, in the proviso to sub-section (5), for the words and figures “31st March, 2007”, the words and figures “30th June, 2009” shall be substituted ;

(6) in section 16, in sub-section 2, for the existing proviso, the following provisos shall be substituted, namely :—

“Provided that registration shall be deemed to have been granted with effect from the date of commencement of business irrespective of the date of application, for the purposes of,—

(a) paying tax under sub-section (5) of section 6, subject to eligibility, and

(b) opting for payment of tax under section 8 for the relevant years subject to eligibility :

Provided further that new dealers applying for registration and existing dealers having registration may avail this benefit subject to the condition that they shall pay tax under the respective provisions along with interest and will not be entitled for any refunds relating to the period prior to filing of application for registration.”;

(7) in section 20, for sub-section (2A), the following sub-section shall be substituted, namely :—

“(2A) Every dealer registered under this Act and every others required to file their returns under this Act shall file their returns as well as purchase and sale list through electronic filing in addition to the hard copy to be filed along with the returns:

Provided that the Commissioner may, in the interest of tax administration, exempt such class or classes of dealers or others as may be prescribed, from electronic filing of returns and the stipulation regarding hard copy of returns prescribed under this sub-section.”;

(8) in section 22,—

(i) in sub-section (1), after the existing proviso, the following proviso shall be inserted, namely :—

“Provided further that where the filing of an incorrect return is due to the detection of any suppressed turnover as admitted by the dealer and such offence compounded under section 74, the turnover conceded in the revised return shall include the actual suppressed turnover detected.”;

(ii) in sub-section (5), after the words, figures and brackets “sub-section (1) of section 20” the words, figures and brackets “or under sub-section (2) of this section” shall be inserted ;

(9) in section 24, in sub-section (1), in clause (c), for the words “two years”, the words “three years” shall be substituted ;

(10) in section 40, after the existing proviso, the following proviso shall be inserted, namely :—

“Provided further that auctioneers acting as agents and effecting auction sale shall maintain in such manner, as may be prescribed, the details of such goods received for auction, sold in auction and those returned to the owners of such goods without effecting auction.”;

(11) in section 42, in sub-section (1), the following proviso shall be inserted, namely :—

“Provided that a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969), may in lieu of the statement and certificate mentioned above, submit a copy of the audited statement of accounts and certificate issued by the Registrar of Co-operative Societies on or before 31st day of December of the year succeeding to the year to which annual return relates.”;

(12) in section 44, in sub-section (6), for the words “sixty days”, the words “one hundred and eighty days” shall be substituted ;

(13) in section 47, in sub-section (16), for the words “in the public auction”, the words “in public auction or by public sale” shall be substituted ;

(14) in section 49, after sub-section (8), the following sub-section shall be inserted, namely :—

“(8A) Notwithstanding anything contained in this Act, the goods so confiscated under this section can be disposed of by public auction or by public sale, if the Commissioner feels that compelling circumstances exist to do so.”;

(15) section 55 shall be omitted ;

(16) in section 56, in sub-section (2), the words and brackets “Deputy Commissioner (Appeals) or” shall be omitted ;

(17) in section 58,—

(i) in sub-section (1), the words and brackets “other than that of the Deputy Commissioner (Appeals)” shall be omitted ;

(ii) in sub-section (2), the words and brackets “the Deputy Commissioner (Appeals) or” shall be omitted ;

(18) in section 59, in sub-section (1), the words, brackets and figures “the Deputy Commissioner (Appeals) under section 55” shall be omitted ;

(19) in section 60,—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Any person aggrieved by any order issued or proceedings recorded other than those under sub-section (3), sub-section (8), or sub-section (9) of section 16, sub-section (8) of section 19 passed by an authority empowered to do so, or any officer empowered by the Government in this behalf may within a period of sixty days from the date on which the order was served on him, in the manner prescribed, appeal against such order to the Appellate Tribunal.”;

(ii) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) All appeals together with the interlocutory applications, if any, pending for disposal before any appellate authority under this Act as on the date of commencement of this provision shall stand transferred to the Appellate Tribunal and the Appellate Tribunal shall consider the same as if it is an appeal filed before it.”;

(iii) for sub-section (2), the following sub-section shall be substituted, namely :—

“(2) On receipt of notice that an appeal against his order has been preferred the assessing authority or any other officer authorised by the Government in this behalf may within thirty days of receipt of the notice, file a memorandum of cross objections and the Appellate Tribunal shall consider the same while disposing of the appeal.”;

(20) in section 67, in the proviso to sub-section (1), for the words “one year”, the words “three years” shall be substituted ;

(21) after section 70A, the following section shall be inserted, namely :—

“70B. Penalty for commercial use of goods brought from outside the State declaring it as for own use.—Any person bringing goods from outside the State declaring it as for own use and has used the goods so brought otherwise than for own use, shall, without prejudice to any other provisions in this Act, be liable to pay by way of penalty, an amount not exceeding thrice the amount of tax due on such goods.”;

(22) in section 74, in sub-section (1), for the words ‘two lakhs’, the words ‘four lakhs’ shall be substituted ;

(23) after section 74, the following section shall be inserted, namely :—

“74A. Voluntary disclosure of unaccounted transactions.—(1) Any dealer who had failed to include or suppressed any turnover or taxable turnover in the return filed upto 31st March, 2008 shall be permitted to disclose voluntarily such suppressed turnover to the assessing authority on or before 30th June, 2009.

(2) Such dealers shall file a revised return along with tax due thereon and a statement admitting such non-inclusion or suppression in the returns already filed.

(3) Interest and penalty on the tax due on the suppressed turnover shall be waived in the case of such dealers.

(4) The provisions under this section shall not be applicable to cases already detected by any authority under this Act.”;

(24) in section 86, in sub-section (1), after clause (d), the following clause shall be inserted, namely :—

“(e) a member of the Institute of Company Secretaries of India within the meaning of section 2(2) of the Company Secretaries Act, 1980 (Central Act 56 of 1980)”;

(25) in section 94,—

(i) in the marginal heading, for the word “Commissioner”, the word “Authority” shall be substituted ;

(ii) in sub-section (1), after the words “shall be decided by”, the words “an authority consisting of three Deputy Commissioners nominated by” shall be inserted ;

(iii) in sub-section (2),—

(a) for the word “Commissioner”, the word “authority” shall be substituted ;

(b) the following sentence shall be added at the end, namely :—

“Commissioner may considering the fact in issue decide whether such orders have prospective operation only.”;

(iv) in sub-section (5),—

(a) for the words “by the Commissioner”, the words “by the authority” shall be substituted ;

DECLARATION UNDER THE KERALA PROVISIONAL COLLECTION OF REVENUES ACT, 1985 (10 OF 1985)

It is hereby declared that it is expedient in the public interest that all the provisions of this Bill except sub-clauses (1)(i), (2) and (5) to (9) of clause 4, sub-clauses (1), (2) and (5) to (7) of clause 5, sub-clauses (1) to (5) and (7) to (15) of clause 6 and sub-clauses (1), (2), (15) to (19) and (25)(iv) (b) of clause 7 shall have effect from the 1st day of April, 2009 under the Kerala Provisional Collection of Revenues Act, 1985 (10 of 1985).

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the following enactments to give effect to the financial proposals of Government of Kerala for the financial year 2009-2010 as announced in paras 197, 198, 202 to 204, 206 to 212, 214, 216 to 229, 234 to 252 and 259 in the Budget Speech 2009 - 2010, namely :—

1. The Kerala Surcharge on Taxes Act, 1957 (11 of 1957)
2. The Kerala Stamp Act, 1959 (17 of 1959)
3. The Kerala General Sales Tax Act, 1963 (15 of 1963)
4. The Kerala Tax on Luxuries Act, 1976 (32 of 1976)
5. The Kerala Agricultural Income Tax Act, 1991 (15 of 1991)
6. The Kerala Value Added Tax Act, 2003 (30 of 2004)

FINANCIAL MEMORANDUM

Sub-clause (25) of clause 7 of the Bill proposes to amend section 94 of the Kerala Value Added Tax Act, 2003, to empower the Commissioner to constitute an authority consisting of three Deputy Commissioners nominated by him to decide disputes and to issue clarifications. The expenditure required for this purpose from the Consolidated Fund of the State cannot be estimated with any degree of accuracy at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Clause 2 of the Bill proposes to insert a new section 3B to the Kerala Surcharge on Taxes Act, 1957, which seeks to empower the Government to

prescribe the form for making an application to opt for settling the arrears by availing reductions in the case of public sector undertakings.

2. Sub-clause (3) of clause 4 of the Bill proposes to insert a new section 23BA to the Kerala General Sales Tax Act, 1963, which seeks to empower the Government to prescribe the form for making an application to opt for settling the arrears by availing reductions in the case of public sector undertakings.

3. Sub-clause (8) of clause 4 of the Bill proposes to amend section 39 of the Kerala General Sales Tax Act, 1963, which seeks to empower the Government to prescribe the manner in which the appeal against the order of the assessing authority has to be filed before the Appellate Tribunal.

4. Sub-clause (6) of clause 5 of the Bill proposes to amend section 7A of the Kerala Tax on Luxuries Act, 1976, which seeks to empower the Government to prescribe the manner in which the appeal against the order of assessment of the assessing authority has to be filed before the Appellate Tribunal.

5. Sub-clause (6) of clause 6 of the Bill proposes to insert a new section 37C to the Kerala Agricultural Income Tax Act, 1991, which seeks to empower the Government to prescribe the form for making an application to opt for settling the arrears by availing reductions.

6. Sub-clause (3) of clause 7 of the Bill proposes to amend section 6 of the Kerala Value Added Tax Act, 2003, which seeks to empower the Government to prescribe a statement to be filed along with the record of payment of quarterly tax and also to prescribe the details in the annual declaration which has to be filed before the authorities by the dealers.

7. Sub-clause (7) of clause 7 of the Bill proposes to amend section 20 of the Kerala Value Added Tax Act, 2003, which seeks to empower the Government to prescribe the manner for exemption of such class or classes of dealers or others from electronic filing of returns.

8. Sub-clause (10) of clause 7 of the Bill proposes to amend section 40 of the Kerala Value Added Tax Act, 2003, which seeks to empower the Government to prescribe the manner in which the details of goods received for auction, sold in auction and those goods returned to the owners without effecting auction.

9. Sub-clause (19) of clause 7 of the Bill proposes to amend section 60 of the Kerala Value Added Tax Act, 2003, which seeks to empower the Government to prescribe the manner in which the appeal against the order of the assessing authority has to be filed before the Appellate Tribunal.

The matters in respect of which rules are to be made are either administrative in nature or matters of detail. Further, the rules, after they are made, will be subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is, thus, of a normal character.

DR. T. M. THOMAS ISSAC.

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
SURCHARGE ON TAXES ACT, 1957

(11 OF 1957)

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“3. *Reduction of arrears in certain cases.*—(1) Notwithstanding anything contained in this Act, or in any Judgement, decree or order of any court, tribunal or appellate authority, an assessee who is in arrears of surcharge or any other amount due under the Act relating to the period ending on 31st March, 2005, may opt for settling the arrears by availing reduction at the following rates:

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(7) If the amount settled under this provision has been a subject matter of appeal or revision, such appeal and revision may be continued and if the final orders of such appeal or revision results in the reduction of surcharge payable under this Act, the amount so reduced shall be refunded. But if, as the result of such appeal or revision, the surcharge payable under this Act is enhanced, the dealer shall pay such enhanced amount, with interest thereon, in accordance with the provisions of this Act.”.

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EXTRACT FROM THE RELEVANT PORTIONS OF THE
KERALA STAMP ACT, 1959

(17 OF 1959)

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9. *Power to reduce remit or compound duties.*—(1) The Government may, be order published in the Gazette:—

(a) reduce or remit, whether prospectively, or retrospectively in the whole or any part of the State of Kerala, if in the opinion of the Government it is necessary in public interest so to do, the duties with which any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable; and

(b) Provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of bonds or other marketable securities other than debentures.

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EXTRACT FROM THE RELEVANT PORTIONS OF THE
KERALA GENERAL SALES TAX ACT, 1963

(15 OF 1963)

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2. *Definitions.*—(1) In this Act, unless the context otherwise requires:

(i) “*Appellate Assistant Commissioner*” means any person appointed to be an Appellate Assistant Commissioner under Section 3;

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(xvii) “*Petrol*” means dangerous petroleum having its flashing point below 24.4 degrees centigrade;

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3. *Sales tax Authorities.*—(1) The Board of Revenue shall have and exercise all the powers and shall perform all the duties conferred or imposed upon it by or under this Act.

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(2) The Government shall appoint as many Joint Commissioners, Deputy Commissioners, Appellate Assistant Commissioners, inspecting Assistant Commissioners, Sales Tax Officers and such other officers as they think fit for the purpose of performing the functions respectively assigned to them by or under this Act. Such officers shall perform the said functions within such local limits as the Government or any authority or officer empowered by them in this behalf may assign to them.

(3) all officers and persons employed in the execution of this Act shall observe and follow the orders, instruction and directions of the officers superior to them:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of him appellate functions.

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17. *Procedure to be followed by the assessing authority.*—(1) Every registered dealer and every dealer liable to take out registration under this Act shall submit such return or returns relating to his turnover in such manner and within such period as amy be prescribed.

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(6) Any assessment under this Section shall be completed within a period of five years from the expiry of the year to which the assessment relates:

Provided that this time limit shall not apply in the case of dealers who, being liable to get themselves registered as provided for under the Act and the Rules made thereunder have failed to do so or have done business as benamidars or through benamies:

Provided further that the assessment relating to the year 1994-1995 shall be completed on or before 31st March 2000:

Provided also that any assessment, other than an assessment falling under sub-section (4) or sub-section (4A), shall be completed with four months from the last date of checking of the books of accounts for the purpose of assessment for the year or within six months from such date with the permission of the next higher authority:

Provided also that the assessment relating to the years up to and including the 2003-04 pending as on 31st March, 2008 shall be completed on or before the 31st day of March, 2009.

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(8) Any assessment or reassessment in pursuance of an order appellate or revisional authority shall, be completed within a period of four years from the expiry of the year in which the order was received.

Provided that all such assessments or re-assessments pending as on 31st day of March, 2008 shall be completed on or before the 31st day of March, 2009.

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Provided also that all such modified assessments or modified re-assessments or remanded assessments pending as on the 31st day of March, 2008 shall be completed on or before the 31st day of March, 2009.

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23B. *Reduction of arrears in certain cases.*—(1) Notwithstanding anything contained in this Act, or in any Judgement, decree or order of any court, tribunal or appellate authority, an assessee who is in arrears of tax or any other amount due under the Act relating to the period ending on 31st March, 2005, may opt for settling the arrears by availing reduction at the following rates:

(a) in the case of demands relating to the periods up to and including 31st March, 1991, a reduction of twenty five per cent for the tax amount, and complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon;

(b) in the case of demands relating to the period from 1st April 1991 to 31st March, 1996, a complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon;

(c) in the case of demands relating to the period from 1st April, 1996 to 31st March, 2000, a reduction of ninety five per cent of the interest on the tax amount and for the amount of penalty and interest thereon;

(d) in the case of demands relating to the period from 1st April, 2000 to 31st March, 2005, a reduction of ninety per cent of the interest on the tax amount, and for the amount of penalty and interest thereon; and

(e) in cases where principal amount has already been remitted prior to coming into force of section 55C of the Act, a reduction of ninety per cent of the interest amount.

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(7) if the amount settled under this provision has been a subject matter of appeal or revision, such appeal and revision may be continued and if the final orders of such appeal or revision results in the reduction of tax payable under this Act, the amount so reduced shall be refunded. But if, as the result of such appeal or revision, the tax payable under this Act is enhanced, the dealer shall pay such enhanced amount, with interest thereon, in accordance with the provisions of this Act.

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34. *Appeals to the Appellate Assistant Commissioner.*—(1) Any Person objecting to an order affecting him passed by an appropriate authority under sub-section (6) or sub-section (7) of section 14, section 14A, sub-section (2) or sub-section (3) or sub-section (4) or sub-section (4A) of section 17. sub-section (1) or, sub-section (2) of section 19 (section 19A), section 19B, section 19C, section 26, section 29, section 29A, section 30 or section 30A or an order passed by a lower authority under section 43 and section 45A may, within a period of thirty days from the date on which the order was served on him, appeal against such order to the Appellate Assistant Commissioner:

Provided that where the order to be appealed against involves only a question of law which has been settled by a decision of the High Court or the Supreme Court the appeal may be filed before the appellate Tribunal.

Provided further that the Appellate Assistant Commissioner may admit an appeal presented after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period :

Provided also that in case of an order under sub-section (2) or sub-section (3) or sub-section (4) or sub-section (4A) of section 17 or sub-section (1) or sub-section (2) of Section 19, or Section 19B no appeal shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax or other amounts admitted by the appellant to be due or of such instalment thereof as might have become payable, as the case may be.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner, and be accompanied by a fee of two hundred rupees.

(3) In disposing of an appeal, the Appellate Assistant Commissioner may, after giving the appellant a reasonable opportunity of being heard,—

(a) in the case of an order of assessment or penalty, confirm, reduce, enhance or annul the assessment or the penalty or both; or

(b) in the case of any other order, confirm, cancel or vary such order:

Provided that, at the hearing of any appeal against an order of the assessing authority, the assessing authority shall have the right to be heard either in person or by a representative.

(3A) The order of the Appellate Assistant Commissioner disposing of an appeal shall state the point for determination, the decision thereon and the reason for arriving at such decision.

(4) Where as a result of the appeal any change becomes necessary in the order appealed against, the Appellate Assistant Commissioner may direct the assessing authority to amend such order accordingly and on such amendment being made, any amount over paid by the appellant shall be refunded to him or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(5) Notwithstanding that an appeal has been preferred under sub-section (4) the tax or other amounts shall be paid in accordance with the order against which the appeal has been preferred:

Provided that the Appellate Assistant Commissioner may, in his discretion, give such directions as he thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to his satisfaction in such form and in such manner as may be prescribed.

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36. *Power of revision of Deputy Commissioner on application.*—(1) Any person objecting to an order passed or proceeding recorded under this Act for which an appeal has not been provided for in Section 34 or section 39 may, within a period of thirty days from the date on which a copy of the order or proceeding was served on him in the manner prescribed, file an application for revision of such order or proceeding to the Deputy Commissioner:

Provided that the Deputy Commissioner may admit an application for revision presented after the expiration of the said period, if he is satisfied that the applicant had sufficient cause for not presenting the application within the said period.

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37. *Powers of revision of the Board of Revenue suo motu.*—(1) The Board of Revenue may suo motu call for and examine any order passed or proceeding recorded under this Act by any officer or authority subordinate to it other than an Appellate Assistant Commissioner, which in his opinion is prejudicial to revenue and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act may pass such order thereon as it thinks fit.

(2) The Board of Revenue shall not pass any order under sub-section (1) if—

- (a) the time for appeal against that order has not expired;
- (b) the order has been made the subject matter of an appeal to the Appellate Assistant Commissioner or the Appellate Tribunal or of a revision in the High Court; or
- (c) more than four years have expired after the passing of the order referred to therein

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39. *Appeal to Appellate Tribunal.*—(1) Any person objecting to an order referred to in the first proviso to sub-section (1) of section 34 or any officer empowered by the Government in this behalf or any other person objecting to

an order passed by the Appellate Assistant Commissioner under sub-section (3) of Section 34 and any person objecting to an order passed by the Deputy Commissioner under sub-section (1) of Section 35 may, within a period of sixty days from the date on which the order was served on him in the manner prescribed, appeal against such order to the Appellate Tribunal:

Provided that the Appellate Tribunal may admit an appeal presented after the expiration of the said period if it is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period.

(2) The officer authorised under sub-section (1) or the person against whom an appeal has been preferred, as the case may be on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) by the other party, may, notwithstanding that he has appealed against such order or any part thereof, file, within thirty days of the receipt of the notice, a memorandum of cross objections verified in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1).

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45A. *Imposition of penalty by officers and authorities.*—(1) Notwithstanding anything contained in section 46 if the assessing authority or the Appellate Assistant Commissioner is satisfied that any person,—

- (a) being a person required to register himself as dealer under this Act, did not get himself registered; or
- (b) has failed to keep true and complete accounts; or
- (c) has failed to submit any return as required by the provisions of this Act or the rules made thereunder; or
- (d) has submitted an untrue or incorrect return; or
- (e) has failed to comply with all or any of the terms of any notice or summons issued to him by or under the provisions of this Act or the rules made thereunder; or
- (f) after purchasing any goods in respect of which he has made a declaration under proviso to sub-section (3) of Section 5, has failed to make use of the goods for the declared purpose; or

(g) has acted in contravention of any of the provisions of this Act or any rule made thereunder, for the contravention of which no express provision for payment of penalty or for punishment is made by this Act;

(h) or has abetted the commission of any of the above offences.

such authority or officer may direct that such person shall pay, by way of penalty, an amount not exceeding twice the amount of Sales Tax or other amount evaded or sought to be evaded, where it is practicable to quantify the evasion or an amount not exceeding ten thousand rupees in any other case.

Explanation I:—The burden of proving that any person is not liable to the penalty under this Section shall be on such person.

Explanation II:—For the purposes of this sub-section the expression “assessing authority” includes any officer not below the rank of a Sales Tax Officer Specified by the Government in this behalf by notification in the Gazette.

(2) No order under sub-section (1) shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter.

(3) The Deputy Commissioner may, on application by any person on whom the penalty is imposed under sub-section (1) within thirty days from the date of receipt by him of the order imposing such penalty, for reasons to be recorded in writing confirm, reduce or waive such penalty or remand the case to the assessing authority or Appellate Assistant Commissioner, as the case may be, for reconsideration:

Provided that the Deputy Commissioner may admit an application made after the expiry of the said period of thirty days if he is satisfied that the applicant had sufficient cause for not making the application within the said period.

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EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
TAX ON LUXURIES ACT, 1976

(32 OF 1976)

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2. *Definitions.*—(1) In this Act, unless the context otherwise requires.—

(a) “appellate authority” means an appellate authority appointed under sub-section (2) of Section 3;

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3. *Authorities.*—(1) The Government may, by notification in the Gazette, appoint such officers as they think fit to be assessing authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit.

(2) The Government may, by notification in the Gazette, appoint such officers as they think fit to be appellate authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit.

(3) all authorities and officers employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board of Revenue:

Provided that no such orders, instruction or directions shall be given so as to interfere with the discretion of the appellate authority in the exercise of its appellate functions.

4. *Levy and collection of luxury tax.*—(1) Subject to the provisions of this Act, there shall be levied and collected a tax, hereinafter called ‘luxury tax’ in respect of any luxury provided.

(i) in a hotel, house boat, hall, auditorium or kalyanamandapam or including those attached to hotels, clubs, kalyanamandapam and places of the like nature which are rented for accommodation for residence or used for conducting functions, whether public or private, exhibition;

(ii) by cable operators;

(iii) in a hospital; and

(iv) in home stay:

Provided that the sub-section shall not apply to halls and auditorium located within the premises of ‘place of worship’ owned by such institutions.

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(5) any amount recoverable under this Act and remaining unpaid shall be a charge on the properties of the defaulter and may be recovered as an arrear of public revenue due on land.

5A. *Compounding of tax.*—(1) Notwithstanding anything contained in section 4 or section 5, any proprietor of a house boat may apply to the assessing authority for permission to compound the tax at the following rates per annum, namely:—

- | | | | |
|-------|--|---|---|
| (i) | Non air-conditioned house boat
with one bed room | : | Ten thousand rupees |
| (ii) | Non air-conditioned house boat
with two bed rooms or more | : | Fifteen thousand rupees |
| (iii) | Air-conditioned house boat
with one bed room | : | Seventeen thousand and
five hundred rupees |
| (iv) | Air-conditioned house boat
with two bed rooms or more | : | Twenty five thousand rupees} |

(2) The tax payable in accordance with the above sub-section shall be payable in equal monthly instalments rounded to the nearest ten rupees or multiples of rupees ten.

(3) For the purpose of sub-section (1) any person who is liable to pay the tax shall file an application and return to the assessing authority within ninety days of the commencement of this Act on or before the first day of May every year.

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7. *Appeal.*—(1) Any person aggrieved by an order of assessment made or a penalty levied under section 6, sub-section (7) and (8) of Sections 12A, sub-section (8) of Section 13 or Section 17A may, within thirty days from the date of receipt of the order, apply to the appellate authority for the annulment or modification of the assessment or penalty;

and on such application, the appellate authority may, subject to such rules of procedure as may be prescribed, confirm, annul or modify the assessment or penalty.

(2) The appeal under sub-section (1) shall be in such manner and in such form, as may be prescribed, and shall be accompanied by a fee of one hundred rupees

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7A. *Appeal to Appellate Tribunal.*—(1) Any person aggrieved by an order referred in the sub-section (1) of section 7 or any officer empowered by the Government in this behalf or any other person objecting to an order passed by the Appellate Authority under sub-section (1) of section 7 may, within sixty days from the date on which the order was served on him, appeal against such order to the Appellate tribunal in such manner as may be prescribed:

Provided that the Appellate Tribunal may admit an appeal presented after the expiry of the said period if it is satisfied that the appellant has sufficient cause for not presenting the appeal within the said period.

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(4) Every order passed by the Appellate Tribunal under sub section (3) shall be communicated in the manner prescribed to the appellant, the respondent, the authority from whose order the appeal was preferred, the Deputy Commissioner concerned and to the Commissioner Commercial Taxes.

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8. *Revision*—(1) The Board of Revenue may, either *suo motu* or on application, call for and examine the record and proceedings of any order made by the assessing authority and pass such order thereon as it thinks just and proper.

Provided that no application under this sub-section shall be entertained if it is not made within a period of ninety days from the date on which the order in question was received by the applicant.

Provided further that before rejecting any application under this sub-section the Board of Revenue shall record reasons for such rejection.

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(3) Where a person could have appealed under Section 7 and no appeal has been filed by him, no proceedings under this Section shall be entertained upon the application of such person.

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EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
AGRICULTURAL INCOME TAX ACT, 1991 (15 OF 1991)

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2. *Definitions.*—In this Act unless the context requires,

(1) “agricultural income” means—

(a) any rent or revenue derived from land Which is used for agricultural purposes ;

(b) any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii) ;

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clause (ii) and (iii) of clause (b) is carried on :

Provided that—

(i) the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building, and

(ii) the land is either assessed to land revenue or is subject to a local rate assessed and collected by officers of the Government as such or, where the land is not so assessed to land revenue or subject to a local rate it is not situated—

(A) in any area, which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or

a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year ; or

(B) in any area within such distance, not being more than eight kilometers, from the local limits of any municipality or cantonment board referred to in item (A), as may be specified by the Central Government under the proviso to sub-clause (c) of clause (1) of Section 2 of the Income Tax Act, 1961 (Central Act 43 of 1961) ;

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(5) “Deputy Commissioner (Appeals)” means a person appointed to be Deputy Commissioner (Appeals) of Agricultural Income Tax under section 24 ;

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24. *Agricultural Income Tax Authorities.*—(1) There shall be the following classes of Agricultural Income Tax Authorities for the purposes of this Act, namely :—

- (a) The Board of Revenue,
- (b) The Commissioner of Agricultural Income Tax,
- (c) Deputy Commissioners of Agricultural Income Tax,
- (d) [Deputy Commissioner (Appeals) of Agricultural Income Tax,
- (e) Inspecting Assistant Commissioners of Agricultural Income Tax,
- (f) Agricultural Income Tax Officers, and
- (g) Agricultural Income Tax Inspectors.

** ** *

25. *Instructions to subordinate authorities.*—(1) The Board of Revenue or the Commissioner may from time to time, issue such orders, instructions and directions to the other Agricultural Income Tax Authorities, as it he may deem fit. for the administration of the Act, and such authorities and all other persons employed in the execution of the Act shall observe and follow such orders, instructions and directions of the Board of Revenue or the Commissioner as the case may be :

Provided that no such orders, instructions or directions shall be issued so as to interfere with the discretion of the Deputy Commissioner (Appeals) or the Deputy Commissioner in the exercise of their appellate functions.

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due under this Act upto the period ending with 31st March 2003 may opt for setting the arrears by availing a reduction of interest by paying the amount as shown below :

(i) outstanding tax amount along with 30 per cent of the interest already due on the date of payment, if paid on or before 29th February, 2004.

(ii) outstanding tax amount along with 40 per cent of the interest already due on the date of payment, if paid on or before 31st March, 2004.

Provided that the reduction in interest granted under this section shall be applicable to case in which revenue recovery proceeding have already been initiated and where the amount is settled under this section, the assessing authority shall withdraw the revenue recovery proceedings against such assessee :

Provided further that assessing authority shall have the power to collect the tax advised for revenue recovery.

(2) An assessee who opt for payment of the arrears under this section shall make an application to the assessing authority, in writing on or before the 15th February, 2004.

(3) On receipt of an application, under sub-section (2), the assessing authority shall intimate the quantum of tax or other amount due under this Act and the interest payable under sub-section (4) of section 37 as on the date of payment after allowing the reduction of interest under sub-section (1).

(4) Where any second appeal or revision filed by the Government is pending against any order or proceedings giving rise to any demand and an assessee has opted to avail himself of the benefit under this section in respect of such demand, such appeal or revision may be continued, as if the assessee had not opted for the benefit under this section.

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43. *Procedure when identical question of law is pending before High Court or Supreme Court.*—(1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Agricultural Income Tax Officer, or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court in revision or in appeal (such case being hereafter in this section referred to as the other case),

before the Appellate Tribunal where such order involves only a question of law which has been settled by a decision of the High Court or the Supreme Court.

(3) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of three hundred rupees.

(4) The appeal shall be presented within a period of thirty days from the date of service of the order sought to be appealed against :

Provided that the Appellate Assistant Commissioner or the Deputy Commissioner, as the case may be, may admit an appeal after the expiration of the said period, if he is satisfied that the appellant has sufficient cause for not presenting it within that period.

(5) No appeal under this section shall be admitted unless at the time of presenting the appeal, the assessee has paid the tax due on the agricultural income admitted by him.

(6) The Deputy Commissioner (Appeals) shall fix a day and place for the hearing of the appeal, and shall give notice of the same to the appellant and to the Agricultural Income Tax Officer or the Inspecting Assistant Commissioner as the case may be against whose order the appeal is preferred.

(7) The appellant or the Agricultural Income Tax Officer or the Inspecting Assistant Commissioner as the case may be, shall have the right to be heard either in person or by an authorised representative.

(8) The Deputy Commissioner (Appeals) shall have the power to adjourn the hearing of the appeal from time to time.

(9) The Deputy Commissioner (Appeals) disposing of any appeal may make such further inquiry as he thinks fit, or may direct the Agricultural Income Tax Officer or Inspecting Assistant Commissioner as the case may be, to make further inquiry and report the result of the same to the Appellate Assistant Commissioner or Deputy Commissioner as the case may be.

(10) The Deputy Commissioner (Appeals) may at the time of hearing of an appeal, allow the appellant to raise any ground of appeal, not specified in the grounds of appeal, if the Appellate Assistant Commissioner or Deputy Commissioner is satisfied that the omission of the ground in the form of appeal was not wilful.

(11) The order of the Deputy Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.

(12) On the disposal of the appeal, the Deputy Commissioner (Appeals) shall communicate the order passed by him to the assessee and to such other officers of the department, as the Board of Revenue may direct.

(13) In disposing of an appeal the Deputy Commissioner (Appeals) shall have the following powers :—

(a) In appeal against an order of assessment he may.—

(i) confirm, reduce, enhance or annual the assessment ; or

(ii) set aside the assessment or refer the case back to the Agricultural Income Tax Officer or the inspecting Assistant Commissioner as the case may be, for making a fresh assessment in accordance with the directions given by the Appellate Assistant Commissioner or the Deputy Commissioner as the case may be and the Agricultural Income Tax Officer or inspecting Assistant Commissioner as the case may be shall, there upon proceed to make a fresh assessment and determine, wherever necessary, the amount of tax payable on the basis of such fresh assessment ; or

(iii) pass such other order as he may think fit.

(b) In an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it as either to enhance or to reduce the penalty.

(c) In an appeal against any other order he may pass such orders as he thinks fit.

(14) The Deputy Commissioner (Appeals) shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant is given a reasonable opportunity of showing cause against such enhancement or reduction.

(15) Where as a result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of any of these is ordered to be made, the Deputy Commissioner (Appeals) may authorise the Agricultural Income Tax Officer or the Inspecting Assistant Commissioner as the case may be, to amend accordingly any assessment made on any partner of the firm or any member of the association.

an appeal referred to in sub-section (2) or a memorandum of cross objections referred to in sub-section (4), be accompanied by a fee of Seven hundred rupees.

(7) In respect of appeals presented before it the Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard,—

(a) in the case of an order of assessment—

(i) confirm, reduce, enhance or annual the assessment ; or

(ii) set aside the assessment and refer the case back to Agricultural Income Tax Officer or the Inspecting Assistant Commissioner as the case may be, for making a fresh assessment in accordance with the directions given by the Appellate Tribunal and after making such further enquiry as may be necessary, the Agricultural Income Tax Officer or the Inspecting Assistant Commissioner as the case may be, shall thereupon proceed to make a fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment, or

(iii) pass such other order as the Appellate Tribunal may think fit ;

(b) in the case of an order imposing a penalty confirm or cancel such order or vary it so as either to enhance or to reduce the penalty ; or

(c) in the case of any other order, pass such order, as it thinks fit.

Explanation :—The power of enhancement in this sub-section is enhancement of either the agricultural income or tax or penalty over and above that fixed as per the orders appealed against and the Appellate Tribunal shall have the power to enhance even if there is no appeal or cross objections by the officer empowered by Government under sub-section (2).

(8) (a) When appeals are presented by the assessee and the Officer empowered by Government under sub-section (2), or cross objections are presented by either of them, against the same order of the Deputy Commissioner (Appeals) both the appeals along with the cross objections, if any, shall be heard together and disposed of by a common order.

(b) When the Appellate Tribunal passes any order in contravention of clause (a) of this sub-section, such order shall not be binding on the party whose appeal or cross objections is pending hearing and the Appellate Tribunal shall on application by either party to the appeal, shall proceed to re-hear the

appeal, as if it was not so decided and pass orders in accordance with sub-section (7) and clause (a) of this sub-section.

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(13) Notwithstanding that an appeal has been preferred under sub-section (1) the tax or other amount shall be paid in accordance with the order against which the appeal has been preferred :

Provided that the Appellate Tribunal may, in its discretion, give such directions as it thinks fit in regard to the payment of tax before the disposal of the appeal :

Provided further that where the Appellate Tribunal has passed an order of stay in an appeal, it shall dispose of the appeal within a period of one hundred and eighty days from the date of such order :

Provided also that if such appeal is not disposed of within a period specified in the second proviso, the stay order shall stand vacated after the expiry of the said period.

Explanation:—For the purpose of the second and third provisos an order of stay in an appeal passed prior to the 23rd day of July, 2001, shall be deemed to have been passed on the 23rd day of July 2001.

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75. *Powers of revision of the Deputy Commissioner Suo Motu.*—(1) The Deputy Commissioner may, of his own motion, call for and examine the records relating to any order passed or proceeding recorded under this Act, by any Officer or authority subordinate to him, other than a Deputy Commissioner (Appeals) which in his opinion is prejudicial to revenue and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such order thereon as he thinks fit.

(2) The Deputy Commissioner shall not pass any order under sub-section (1) if —

(a) the order has been made the subject of an appeal to the Deputy Commissioner (Appeals) or the Appellate Tribunal or of a revision in the High Court ; or

(b) more than four years have expired after the passing of the order referred to therein :

Provided that in computing the period of limitation for the purpose of sub-section (2), any period during which any proceeding under this section is stayed by an order or injunction of any Court shall be excluded.

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76. *Powers of revision of the Commissioner Suo Motu*.—(1) The Commissioner may of his own motion, call for and examine the records relating to any order passed or proceeding recorded under this Act which in his opinion is prejudicial to revenue, by any officer or authority subordinate to him including a Deputy Commissioner (Appeals), and make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such orders thereon as he thinks fit.

(2) The Commissioner shall not pass any order under sub-section (1) if—

(a) the time for filing appeal against that order has not expired ;

(b) the order has been made the subject of an appeal to the Deputy Commissioner (Appeals) or the Appellate Tribunal or of a revision in the High Court ; or

(c) more than four years have elapsed after the passing of the order referred to therein :

Provided that in computing the period of limitation for the purpose of sub-section (2), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

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78A. *Fees for interlocutory application*.—Every interlocutory application prescribed by the Government and filed before the authorities under this Act, specified below, other than those filed by officers empowered by Government, shall be accompanied by following fees, namely :—

(a) Before the Deputy Commissioner (Appeals) One hundred and fifty rupees

(b) Before the Deputy Commissioner One hundred and fifty rupees

(c) Before the Commissioner or Appellate Tribunal Two hundred and fifty rupees.

79. *Penalty for failure to furnish return, comply with notice, concealment of agricultural income etc.*—(1) If the Agricultural Income Tax Officer, the Inspecting Assistant Commissioner, the Deputy Commissioner (Appeals), the Deputy Commissioner, the Commissioner or the Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person —

(a) has without reasonable cause failed to furnish the return which he was required to furnish under sub-section (1) of section 35 or by notice given under sub-section (2) of section 35 or sub-section (1) section 41, within the time allowed for it under the above sections or under the proviso to sub-section (2) of section 35 and in the manner provided under section 35 or under any rules made thereunder ; or

(b) has without reasonable cause, failed to comply with a notice under sub-section (1) of section 38 or sub-section (2) of section 39, or a summons to appear in person or to produce any accounts or documents or a notice to produce any accounts or documents under section 27; or

(c) has concealed the particulars of his agricultural income or extent or furnished inaccurate particulars of such income or extent ; or

(d) failed to give notice as required by sub-section (2) of section 58 on the discontinuance of business by any company, firm or association of persons ; or

(e) willfully contravened any of the provisions of this Act for which no express provision for penalty or punishment is provided in this Act; such authority may direct that such person shall pay, by way of penalty, in addition to the amount of tax, if any, payable by him a sum not exceeding that amount, where it is practicable to quantify the amount of tax and in other cases a sum of money not exceeding rupees five thousand.

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(5) If the Deputy Commissioner (Appeals), the Commissioner or the Appellate Tribunal makes an order under sub-section (1) such authority shall forthwith send a copy of the same to the Agricultural Income Tax Officer or the Inspecting Assistant Commissioner concerned

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96. *Transfer of appeal.*—The Board of Revenue of the commissioner may, either suo motu or on application, for reasons to be recorded in writing, transfer an appeal pending before the Deputy Commissioner (appeals) to another Deputy

Commissioner (Appeals). The order of transfer shall be communicated to the appellant, to every other person affected by the order to the Agricultural Income Tax Officer or Inspecting Assistant Commissioner, against whose order the appeal was preferred and Deputy Commissioner (Appeals) or Deputy Commissioners concerned.

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EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
VALUE ADDED TAX ACT, 2003 (30 OF 2004)

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2. *Definitions.*—In this Act, unless the context otherwise requires,—

(i) “*Agriculture*” with all its grammatical variations and cognate expressions, includes floriculture, horticulture, the raising of crops, grass or garden produce, and also grazing; but does not include dairy farming, poultry farming, stock breeding, the mere cutting of wood or grass, gathering of fruit, raising of man made forest or rearing of seedlings or plants;

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(xvii) “*Deputy Commissioner (Appeals)*” means any person appointed to be a Deputy Commissioner (Appeals) under sub-section (3) of section 3;

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3. *Commercial tax Authorities.*—(1) The Commissioner shall have and exercise all the powers and shall perform all the duties conferred or imposed upon him by or under this Act:

Provided that the Commissioner may, by an order in writing, delegate any power vested in him to any officer appointed under sub-section (3) :

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- (3) The Government shall appoint as many Joint Commissioners, Deputy Commissioners, Deputy Commissioner (appeals), Assistant Commissioners, Commercial Tax Officers and such other officers as they think fit for the purpose of performing the functions respectively assigned to them by or under this Act. Such officers shall perform the said functions within such local limits as the Commissioner may assign to them .
- (4) All officers and persons employed for the execution of this Act shall observe and follow the orders, instructions and directions of the officers superior to them :

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Deputy Commissioner (Appeals) in the exercise of his appellate functions.

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6. *Leavy of tax on sale or purchase of goods.*—Every dealer whose total turnover for a year is not less than ten lakh rupees and every importer or casual trader or agent of a non-resident dealer, or dealer in jewellery of gold, silver and

platinum group metals or silver articles or contractor or any State Government, Central Government or government of any Union Territory or any department thereof or any local authority or any autonomous body whatever be his total turnover for the year, shall be liable to pay tax on his sales or purchases of goods as provided in this Act. The liability to pay tax shall be on the taxable turnover,—

- (a) in the case of goods specified in the Second and Third Schedules at the rates specified therein and at all points of sale of such goods within the State; and in the case of aerated branded soft drinks excluding soda at the rate of twenty per cent, at all points of sale within the State ;
- (b) xxxxxx
- (c) in the case of transfer of the right to use any goods for any purpose whether or not for a specified period, at the rate of four percent at all points of such transfer ;
- (d) in the case of goods not falling under clauses (a) or (c), at the rate of 12.5 % at all points of sale of such goods within the State. Government may notify a list of goods taxable at the rate of 12.5%.

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(5) Notwithstanding anything contained in sub-section (1), but subject to sub-section (2) any registered dealer not being,—

- (a) an importer, or
- (b) a dealer making an sale in the course of interstate trade or commerce or export ; or
- (c) a dealer registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956); or
- (d) a dealer effecting first taxable sale of goods with in the State; or
- (e) a dealer covered by sub-section (1A) or
- (f) a contractor,

whose total turnover for a year is below fifty lakh rupees, may at his option, pay tax at the rate of half per cent of the turnover of sale of taxable goods as presumptive tax instead of paying tax under sub-section (1):

Provided that a dealer holding stock of goods purchased in the course of interstate trade on the date of coming into force of the Act, will have the option to pay tax under this sub-section from the beginning of the quarter following the

quarter in which he has sold such goods in the state and paid tax under sub-section (1) of section 6 and his registration under the Central Sale Tax Act, 1956 (Central Act 74 of 1956) is cancelled :

Provided further that any dealer covered by sub-section (1A) may, at his option pay tax under this sub-section from such period as may be prescribed:

Provided also that a dealer shall not be eligible to opt for payment of tax under this sub-section if his total turnover in respect of goods to which this Act applies, whether under this Act or under the Kerala General Sales Tax Act 1963 (15 of 1963) had exceeded fifty lakh rupees during the year preceding the year to which such option relates.

“Provided also that a dealer shall not be liable to pay presumptive tax under this subsection, if his total turnover is less than ten lakh rupees.

Explanation:—“First taxable sale” for the purpose of this sub-section shall mean the sale of taxable goods effected by a registered dealer immediately after the import of such goods into the State or its manufacture in the State as the case may be, but shall not include the sale of goods in respect of which tax under section 5 or under sub-section (4) of section 59 of the Kerala General Sales Tax Act 1963 (15 of 1963) had been paid and which are held as opening stock on the date of coming into force of the Act;

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(7) Notwithstanding anything contained in Sub-section (1),—

- (a) Any authorised retail or wholesale distributor dealing exclusively in rationed articles namely rice, wheat and kerosene under the Kerala Rationing Order, 1966 shall not be liable to pay tax on the turnover of such goods.
- (b) Sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any special Economic Zone in the State for setting up the unit or use in the manufacture of other goods shall, subjects to such conditions or restrictions, as may be prescribed, be exempted from tax.

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8. *Payment of tax at compounded rates.*—Notwithstanding anything contained in section 6,—

- (a) (i) any works contractor not being a dealer registered under the provisions of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), and who

is not an importer may, at his option, instead of paying tax in accordance with the provisions of the said section, pay tax at three per cent of the whole contract amount ;

(ii) any works contractor not falling under clause (i) above may, at his option, instead of paying tax in accordance with the provisions of the said sections, pay tax at eight per cent of the whole contract amount :

Provided that notwithstanding anything contained in sub-clause (ii) above, the compounded tax payable by any works contractor under this clause in respect of works contracts awarded by Government of Kerala, Kerala Water Authority or Local Authorities shall be four per cent of the whole contract amount :

Provided further that the provisions of this clause shall not apply to any works contract in which the transfer of material is in the form of goods :

Provided also that notwithstanding anything contained elsewhere in this Act, a works contractor who intends to pay tax at compounded rate in accordance with this clause in respect of all works undertaken by him during a year, may, instead of filing separate application for compounding for individual works, file a single option for payment of tax under this clause before 30th day of April of the year to which the option relates, subject to eligibility :

Provided also that in the case of any work covered under the above provisos which remains unexecuted fully or partly at the end of the year, the contractor shall continue to pay tax in respect of such works in accordance with the provisions of this clause.

*Explanation:—*For the purpose of this clause “whole contract amount” shall not include the amount paid to sub-contractors for execution of the portion of works contract if the sub-contractor is a registered dealer liable to tax under sub-section (1) or sub-section (IA) of section 6, and the contractor claiming deduction in respect of such amount furnishes certificates in such form as may be prescribed. ;

(b) Any dealer producing granite metals with the aid of mechanized crushing machine may, at his option, instead of paying tax in accordance with the provisions of the said sections, pay tax at the following rates, namely:—

- (i) for each crushing machine of size not exceeding 30.48cm x 22.86 cm = Rs. 50,000 per annum ;
- (ii) for each crushing machine of size exceeding 30.48 cm x 22.86 cm but not exceeding 40.64 cm x 25.40 cm = Rs. 1,60,000 per annum ;
- (iii) for each crushing machine of size exceeding 40.64 cm x 25.40 cm = Rs. 3,20,000 per annum ;
- (iv) for each cone crusher Rs. 7,50,000 per annum :

Provided that in the case of dealers, who opted to pay compounded tax under this clause, no separate assessment shall be made in respect of m-sand produced by them.

*Explanation:—*For the purposes of this clause, primary crusher shall also be reckoned for the purpose of computation of the quantum of compounded tax and the rate applicable for primary crusher shall be fifty per cent of the rates mentioned in items (i), (ii) and (iii) above;

- (c)(i) Any dealer in cooked food and beverages, including beverages prepared by him, other than a dealer supplying cooked food or beverages to any airline service company or institution or shipping company for serving in air craft, ships or steamer or served in air craft, ship, steamer, bar attached hotel or star hotel may, at his option, instead of paying tax in accordance with the provisions of sub-section (1) of section 6 but subject to payment of tax, if any, payable under sub-section (2) thereof, pay tax at half per cent of the turnover of cooked food and beverages prepared by him and also on the turnover of other goods in respect of which he is not the dealer effecting first taxable sale, as defined in the explanation under sub-section (5) of section 6.
- (ii) Any bar attached hotel, not being a star hotel of and above three star or a club or a heritage hotel may, at its option, instead of paying tax in accordance with the provisions of section 6, but subject to such conditions and restrictions as may be prescribed, pay tax at one hundred and twenty five per cent of the tax paid or payable under this Act, in respect of the highest turnover of cooked food and beverages prepared by them, and packaged water, aerated water, cigarettes and soft drinks purchased from registered dealers, for the previous three consecutive years, immediately preceding the year to which the option relates :

Provided that the dealers who have paid compounded tax during the previous year shall pay tax at one hundred and fifteen per cent of the compounded tax paid and one hundred and fifteen per cent of the tax paid on packaged water, aerated water, cigarettes and soft drinks purchased from registered dealers.

*Explanation:—*For the purpose of this clause “bar attached hotel” shall mean a hotel or restaurant or club or any other place, which is licensed under the Foreign Liquor Rules to serve foreign liquor falling under Serial Number 2 of the Fourth Schedule, but shall not include any hotel or restaurant, not being a star hotel, which is licensed to serve only beer.

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- (f)(i) any dealer in ornaments or wares or articles of gold, silver or platinum group metals may at his option, instead of paying tax in respect of such goods in accordance with the provisions of sections 6, pay tax at one hundred and fifty per cent of the highest tax payable by him as conceded in the return or accounts, or tax paid by him under this Act, whichever is higher, for a year during any of the three consecutive years preceding that to which such option relates.

Explanation 1:—Where a dealer had not transacted any business for the last three years consecutively, the highest tax paid or payable for the year during the year or years he transacted business shall be considered for the above purpose.

Explanation 2:—Where during any such preceding year the dealer had not transacted business for any period in that financial year, the tax payable for the twelve months shall be calculated proportionately on the basis of the tax payable for the period during which such dealer had transacted business.

Explanation 3:—Dealers opting for payment of tax under this clause shall pay compounded tax in respect of all their branches existing in the year previous to the year in which the option relates.

Explanation 4.—Where a dealer has not transacted business in a new branch for any period in that financial year the tax payable for the twelve months shall be calculated proportionately of the basis of the tax payable for the period during which such dealer had transacted business.

Explanation 5:—Where a dealer opens a new branch in the current year, the additional compounded tax payable under this clause in respect of such branch shall be the average of the tax payable by him in respect of his principal place of business and all branches. Such dealers will be permitted to continue to pay compounded tax under this clause even if they do not opt for paying tax under this clause for the new branch.

Explanation 6:—Where a dealer has opted for payment of tax under this clause for the first time in 2007-2008 and the tax payable in 2006-07 as per return or accounts is less than the output tax, the tax payable under this clause for 2007-08 shall be notionally re-determined on the basis of output tax for determining the tax liability for 2008-09 :

Provided that a dealer who opts for payment of tax under this clause may collect tax on the sales at the rate not exceeding the rate prescribed for the commodity under this Act, but where the tax so collected during the year is in excess of the tax payable for the year under this clause , the tax collected in excess shall be paid over to Government in additon to the tax payable under this clause.

- (ii) The assessing authority, for valid and sufficient reasons, such as shifting of place of business, holding of stock exceeding double the quantity held in the previous year, furnishing of false information,

suppression of relevant information, failure to furnish such information demanded, may refuse permission to pay tax under this section and cancel the permission if any granted :

Provided that no orders under this sub-clause shall be issued without giving the dealer an opportunity of being heard and without prior approval of the District Deputy Commissioner.

- (iii) Notwithstanding anything contained in sections 55 of 60 of this Act, orders under sub-clause (ii) shall be appealable only to the Appellate Tribunals.
- (iv) In case where permission has been cancelled, the amount, if any paid based on the permission, shall be apportioned against the output tax due of the dealer.
- (v) Where a dealer had paid tax under this clause for the previous year, the tax payable for the succeeding year under this clause shall be one hundred and fifteen per cent of such tax paid during the previous year and in case of dealers covered under Explanation 6 of this clause, one hundred and fifteen per cent of the tax so re-determined.

11. *Input Tax Credit*.—(1) Subject to the other provisions of this section, any registered dealer, liable to tax under sub-section (1) of section 6, shall be eligible for input tax credit.

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- (5) No input tax credit shall be allowed for the purchases,—
 - (a) from an unregistered dealer or from a dealer not liable to tax under section 6 or from a dealer whose registration has been cancelled ;
 - (b) from a dealer paying presumptive tax under sub-section (5) of section 6 ;
 - (c) from a dealer paying compounded tax under section 8 ;
 - (d) of goods from outside the State in the course of inter State trade or commerce or otherwise in respect of tax paid on such purchase ;
 - (e) of goods which are used in the manufacture, processing or packing of goods specified in the First Schedule and the Fourth Schedule ;
 - (f) of goods specified in the Fourth Schedule ;
 - (g) of goods which are used as fuel in motor vehicles or vessels, or stores ;
 - (h) of motor vehicles where such motor vehicle is sold as a used motor vehicle except where such motor vehicle is purchased as a used motor vehicle ;

- (i) (Omitted)
- (j) which relates to goods sold by a principal through his agent in respect of which the principal has claimed input tax credit or vice versa ;
- (k) of goods remaining unsold at the time of closure of business ;
- (l) of goods which are used in the manufacture, processing or packing of goods, where such manufactured, processed or packed goods remain unsold at the time of closure of business ;
- (m) of goods where tax invoice in the prescribed form is not available with the dealer of there is evidence that the same has not been issued by the selling dealer ;
- (n) by a dealer who is exempted from payment of tax ;
- (o) of goods notified under clause (x) of section 2 ;

Provided that where a dealer remits differential tax in accordance with the provisions of the Act, he may, for the period up to 31st March, 2007 issue debit note for the tax amount subsequently remitted, to the purchasing dealer to claim input tax credit to the extent of the tax covered in the debit not subject to such condition as may be prescribed.

Explanation:—For the purpose of clause (g) “stores” shall not include spare parts or tools in relation to any goods to which the provisions of this section applies.

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16. *Procedure for registration.*—(1) An application for registration shall be made to such authority, in such manner and with such period as may be prescribed and shall be accompanied by a fee as specified in the table below:—

Table

(a)	Where the total turnover is less than five lakh rupees	Five hundred rupees
(b)	where the total turnover is Five lakh rupees and above but is less than ten lakh rupees	Seven hundred and fifty rupees
(c)	where the total turnover is ten lakh rupees and above but is less than fifty lakh rupees	One thousand rupees plus twenty five rupees for each lakh or part thereof above ten lakh

- (d) where the total turnover is fifty lakh rupees and above Two thousand rupees plus fifty rupees for each lakh or part thereof above fifty lakh, so however that the total registration fee shall not exceed twenty thousand rupees.

Provided that a dealer getting registered under clause (ii) of sub-section (2) of section 15 shall not be required to pay the registration fee specified in this sub-section; but only the fee for renewal of registration specified under sub-section (7).

Provided further that where the dealer is an authorised retail or wholesale distributor of rationed articles under the Kerala Rationing Order, 1966, his total turnover for the purpose of this sub-section shall not include the turnover in respect of such goods.

Provided also that in the case of casual trader, the minimum registration fee to be paid shall be two thousand five hundred rupees per month and the maximum period of validity of registration certificates shall be three months from the date of issue of certificate.

Provided also that a person shall not be entitled for more than one registration under this Act.

Provided also that where a dealer liable to get registered under sub-section (1) of section 15 is also liable to get registered under the provisions of the Kerala General Sales Tax Act, 1963 (15 of 1963), notwithstanding anything contained in the said Act, he shall not be required to pay the fee prescribed under the provisions of the said Act for the year if he has paid the fee specified under this section for the said year for the total turnover both under this Act and also under the said Act.

(2) If the prescribed authority after making such enquiries as if may consider necessary, is satisfied that the application is in order and that the particulars furnished there in are correct, it shall register the applicant and issue to him a certificate of registration in the prescribed form.

Provided that the date of effect of the registration shall be the date of filing of the valid application before the registering authority.

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20. *Filing of returns.*—(1) Every registered dealer and every dealer liable to be registered under this Act shall submit to the assessing authority such return or returns before such dates and in such manner and accompanied by such documents as may be prescribed.

(2) In case of a dealer having more than one place of business, the aggregate turnover of all such places of business shall, subject to the provisions of sub-section (3), be taken as the turnover of the business for the purposes of this Act.

(2A) Dealers whose output tax liability per annum is rupees twenty five lakhs or more on account of taxable sale in the State and every wholesale dealer, distributor and dealers holding van sale permit shall file their returns as well as purchase and sale lists electronically in addition to the hard copy to be filed along with the returns.

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22. *Assessment in case of non-filing of return and filing of defective return.*—(1) Where the return submitted under sub-section (1) of section 20 is not in the prescribed manner or not accompanied by the prescribed documents or with incorrect particulars, the assessing authority shall, after recording its reasons, reject the return with due notice to the dealer.

Provided that the payment of any tax declared as payable as per the return shall be provisionally accepted.

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(5) On receipt of the notice under sub-section (4), if the dealer files a return for the return period as provided under sub-section (1) of section 20 and accompanied by proof of payment of tax payable and interest on this amount from the due date for filing of return till the date of filing of return at the rates specified in section 31 and double the amount of interest so due as penalty the assessing authority shall drop the proposal for assessment under sub-section (3) and the assessment for the return period shall be deemed to have been completed on receipt of such return.

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24. *Audit assessment.*—(1) Notwithstanding anything contained in any other provision of this Act, if any dealer—

- (a) is found on audit of his books of accounts other records or otherwise, to have submitted incorrect or incomplete return for any return period ; or
- (b) fails to make available any accounts or other records required by the audit officer for audit in the business place of the dealer ; or

- (c) fails to prove the claim of input tax credit special rebate or refund claimed, the audit officer may, at any time within two years from the last date of the year to which the return relates after conducting such enquiry as he may deem necessary, reject the returns of such return periods and complete the assessments to the best of judgement :

Provided that no assessment under this section shall be completed without affording the dealer an opportunity of being heard.

Provided further that where the defect in the return is only the application of incorrect rate of tax, mistake in the claim of input tax credit, special rebate or refund, no assessment under this sub-section shall be made where the dealer, at his option, files revised return and pays the balance tax along with interest under sub-section (5) of section 31 and thrice the interest as settlement fee :

Provided also that the time limit mentioned in this sub-section and the preceding proviso shall not apply to a dealer where the claim of input tax credit, special rebate or refund made by him was on the basis of any bogus or forged document or where the claim was otherwise fraudulent.

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40. *Maintenance of true and correct accounts by dealers.*—Every person registered under this Act, every dealer liable to get himself registered under this Act every awardee, other than Government Departments and Local Authorities, where the cost of the work exceeds one crore rupees and every other dealer who is required so to do by the authority by notice served in the prescribed manner shall keep and maintain true and correct accounts and such other records as may be prescribed in Malayalam, Tamil, Kannada or English relating to his business, showing such particulars as may be prescribed. Different particulars may be prescribed for different classes or dealers.

Provided that dealers shall be permitted to use electronic billing and accounting subject to such restrictions and conditions as may be prescribed.

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42. *Audit of accounts and certification of returns.*—(1) Every dealer whose total turnover in a year exceeds rupees forty lakhs shall get his accounts audited annually by a Chartered Accountant or Cost Accountant and shall submit copy of the audited statement of accounts and certificate, in the manner prescribed.

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44. *Power to order production of accounts and powers of entry, inspection etc.*—(1) An officer not below the rank of an assessing authority may, for the purposes of this Act, by notice, require any dealer,—

(a) to produce or cause to be produced before him any accounts, registers, records or other documents; or

(b) to furnish or cause to be furnished any other information, relating to his business, and such dealer shall comply with such requisiton.

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(6) The accounts, registers, records or other documents seized under sub-section (5) shall not be retained by the officer seizing them beyond a period of sixty days from the date of the seizure except with the permission of the next higher authority, unless they are required for any prosecution under this act:

Provided that the next higher authority shall not give permission to retain such accounts, registers, records or other documents beyond a period of ninety days from the date of the seizure.

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47. *Procedure for inspection of goods in transit.*—(1) The driver or other person in charge of a vehicle or vessel shall stop the vehicle or vessel and any person referred to in sub-section (4) of section 46 shall stop or, as the case may be, stop the animal at any place within a notified area when so required by the officer in charge of that notified area, or at any other place when so required by any officer empowered by the Government in that behalf, for the purpose of enabling such officer to verify the documents required by sub-section (3) of section 46 to be in the possession of the person transporting the goods and to satisfy himself that there is no evasion of tax.

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(16) Notwithstanding anything contained in the foregoing provisions where any officer referred to in sub-section (1) finds on inspection of any goods under transport that such goods are transported or attempted to be transported in the name of bogus or unidentifiable person or under cover of bogus documents, such officer may, after giving notice to the owner or any person in charge of the vehicle, carrier of bailee in writing and after following such procedure as may be prescribed, seize ¹and confiscate the goods and sell the same in the public auction and the sale proceeds shall be remitted to Government.

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(4) Notwithstanding that an appeal has been preferred under sub-section (1), the tax or other amounts shall be paid in accordance with the order against which the appeal has been preferred:

Provided that the Deputy Commissioner (Appeals) may, at his discretion, give such directions as he thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to his satisfaction in such form and in such manner as may be prescribed.

(5) In disposing of an appeal, the Deputy Commissioner (Appeals) may, after giving the appellants a reasonable opportunity of being heard,—

(a) in the case of an order of assessment or penalty, either confirm, reduce, enhance or annul the assessment or the penalty or both;

(b) set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed;

(c) or pass such other orders as he may think fit; or

(d) in the case of any other order, confirm, cancel or vary such order:

Provided that, at the hearing of any appeal against an order of the assessing authority, the assessing authority or the officer empowered by the Commissioner in this behalf shall be heard.

(6) The order of the Deputy Commissioner (Appeals) disposing of an appeal before it shall state the point for determination, the decision thereon and the reason for arriving at such decision.

(7) Where as a result of the appeal any change becomes necessary in the order appealed against, the Deputy Commissioner (Appeals) may, direct the assessing authority to amend such order accordingly and on such amendment being made, any amount paid in excess by the appellant shall be refunded to him or as the case may be the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

56. *Powers of revision of the Deputy Commissioner suo motu.*—(1) The Deputy Commissioner may, of his own motion, call for and examine any order passed or proceedings recorded under this Act by any officer or authority subordinate to him which in his opinion is prejudicial to the interest of the Revenue and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such order thereon as he thinks fit.

Explanation.—For the purpose of this section an order passed or proceedings recorded shall be deemed to be prejudicial to the interest of the revenue where the tax or other amount assessed or demanded is lower than what is actually due, either due to escapement of turnover or for any other reason.

(2) The Deputy Commissioner shall not pass any order under sub-section (1) if,—

(a) the time for appeal against the order has not expired;

(b) the order has been made the subject matter of an appeal to the Deputy Commissioner (Appeals) or the Appellate Tribunal or of a revision in the High Court; or

(c) more than four years have expired from the year in which the order referred to therein was passed.

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58. *Powers of revision of the Commissioner suo motu.*—(1) The Commissioner may *suo motu* call for and examine any order passed or proceedings recorded under this Act by any officer or authority, subordinate to him other than that of the Deputy Commissioner (Appeals) not being the orders passed by him against any order issued or proceedings recorded under sub-section (3) of section 25, sub-section (8) or sub-section (9) of section 44, section 49, section 67, section 68, section 69 or section 70 which in his opinion is prejudicial to the interest of revenue and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act may pass such order thereon, as he thinks fit.

Explanation.—For the purpose of this section an order passed or proceedings recorded shall be deemed to be prejudicial to the interest of the revenue where the tax or other amount assessed or demanded is lower than what is actually due, either due to escapement of turnover or for any; other reason.

(2) The Commissioner shall not pass any order under sub-section (1) if—

(a) the time for appeal against that order has not expired;

(b) the order has been made the subject matter of an appeal to the Deputy Commissioner (Appeals) or the Appellate Tribunal or of a revision in the High Court; or

(c) more than four years have expired from the year in which the order referred to therein has passed.

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59. *Power of revision of the Commissioner on application.*—(1) Any person objecting to an order passed by the Deputy Commissioner, other than an order of the Deputy Commissioner (Appeals) under section 55 may, within a period of thirty days from the date on which a copy of the order was served on him file an application for revision of such order to the Commissioner.

Provided that the Commissioner may admit an application for revision filed after the expiry of the said period if he is satisfied that the applicant had sufficient cause for not filing the application within the said period.

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60. *Appeal to the Appellate Tribunal.*—(1) Any person objecting to an order passed by the Deputy Commissioner (Appeals) under sub-section (5) of section 55 or any officer empowered by the Government in this behalf may, within a period of sixty days from the date on which the order was served on him, in the manner prescribed, appeal against such order to the Appellate Tribunal:

Provided that the Appellate Tribunal may admit an appeal presented after the expiration of the said period if it is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period:

Provided further that no appeal shall lie in cases where suo moto revision proceedings under section 58 is pending.

(2) The officer authorized under sub-section (1) or the person against whom an appeal has been preferred, as the case may be, on receipt of notice that an appeal against the order of the Deputy Commissioner (Appeals) has been preferred under sub-section (1) by the other party, may, notwithstanding that he has not appealed against such order or any part thereof, file within thirty days of the receipt of the notice, a memorandum of cross objections, verified in the prescribed manner, against any part of the order of the Deputy Commissioner (Appeals) and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1).

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67. *Imposition of penalty by authorities.*—(1) Notwithstanding anything contained in section 71 if any authority empowered under this Act is satisfied that any person,—

(a) being a person required to register himself as a dealer under this Act, did not get himself registered; or

- (b) has failed to keep true and complete accounts; or
- (c) has failed to submit any return as required by the provisions of this Act or the rules made thereunder; or
- (d) has submitted an untrue or incorrect return; or
- (e) has made any bogus claim of input tax credit, special rebate or refund or
- (f) has continued the business during the period of suspension of registration; or
- (g) has failed to return the unused statutory Forms and Declarations under this Act after the cancellation or suspension of the registration; or
- (h) has not stopped any vehicle or vessel when required to do so; or
- (i) has failed to comply with all or any of the terms of any notice or summons issued to him by or under the provisions of this Act or the rules made thereunder; or
- (j) has acted in contravention of any of the provisions of this Act or any rule made thereunder, for the contravention of which no express provision for payment of penalty or for punishment is made by this Act; or
- (k) has abetted the commission of the above offences, or
- (l) has abetted or induced in any manner another person to make and deliver any return or an account or a statement or declaration under this Act or rules made thereunder, which is false and which he either knows to be false or does not believe to be true,

such authority may direct that such person shall pay, by way of penalty, an amount not exceeding twice the amount of tax or other amount evaded or sought to be evaded where it is practicable to quantify the evasion or an amount not exceeding ten thousand rupees in any other case:

Provided that the authority empowered under this section shall dispose of the case within one year from the date of detection of offence mentioned under this section except where the extension of time is granted by the Deputy Commissioner.

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70A. *Penalty for non-issuance of sale bill.*—(1) Any officer during the course of any inspection or search of any business place, building, godown or

any other place, or checking of goods under transport or verification of the bills at any place finds that the seller has not issued a sale bill or an invoice or cash memorandum in respect of any sale, in violation of section 40A of the Act, the dealer shall, without prejudice to any other provisions in the Act, be liable to pay by way of penalty, an amount not exceeding twice the amount of tax evaded or sought to be evaded or one thousand rupees for the first offence, whichever is higher, an amount not exceeding thrice the amount of tax evaded or sought to be evaded or two thousand rupees for the second offence, whichever is higher, and so on in arithmetic progression, for every subsequent commissions of the above offence.

(2) No penalty under sub-section (1) shall be imposed without giving the person affected a reasonable opportunity of being heard.

(3) Notwithstanding anything contained in sub-section (1), the dealer shall have an option to get the offence compounded, on the spot, on the payment of fifty per cent of penalty payable under sub-section (1).

(4) Where an offence has been compounded under sub-section (3), no further penal proceedings under sub-section (1) shall be taken against the dealer in respect of such offence.

(5) A dealer who commits the offence in sub-section (1) for more than ten occasions shall be liable to cancellation of his registration.

74. *Composition of offences.*—(1) The assessing authority or other officer or authority authorized by the Government in this behalf may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act, other than those specified under clauses (e) of sub-section (1) or clauses (b), (c) or (d) of sub-section (2) of section 71, by way of compounding of such offence,—

(a) where the offence consists of the evasion of any tax payable under this Act, in addition to the tax so payable a sum of money equal to the amount of tax so payable subject to a minimum of rupees five hundred and maximum of rupees two lakhs; and

Provided that the maximum compounding fee collectable against a single offence spread over several return periods in a financial year shall be two lakh rupees

(b) in other cases, a sum of money not exceeding ten thousand rupees:

Provided that the Commissioner may by order authorise any officer to compound the offence under this section on payment of a reduced amount.

(2) On payment of such amount under sub-section (1), no further penal or prosecution proceedings shall be taken against such person, in respect of that offence.

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86. *Persons entitled to appear before authority.*—(1) Any person who is entitled or required to appear before any authority other than the High Court in connection with any proceedings under this Act may be represented before such authority,—

(a) by his relative or a person employed by him, if such relative or person is duly authorized by him in writing in this behalf; or

(b) by a legal practitioner; or

(c) by a chartered accountant or a cost accountant duly authorized by him in writing in this behalf; or

(d) by a sales tax practitioner possessing the prescribed qualifications and duly authorized by him in writing in this behalf.

Explanation:—For the purpose of this sub-section the expression “a person employed by him” shall mean a person who is a full time employee under the person on whose behalf he is appearing or part-time employee holding Diploma in Sales Taxation issued by the Centre for Taxation Studies.

(2) The authorisation referred to in sub-section (1) shall be in such form and accompanied by such fee as may be prescribed.

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94. *Power of Commissioner to issue clarification.*—(1) If any dispute arises, otherwise than in a proceedings before any appellate or revisional authority or in any court or tribunal, as to whether, for the purpose of this Act,—

(a) any person is a dealer; or

(b) any transaction is a sale; or

(c) any particular dealer is required to be registered; or

(d) any tax is payable in respect of any sale or purchase, or if tax is payable, the point and the rate thereof; or

(e) any activity carried out in any goods amounts to or results in the manufacture of goods; such dispute shall be decided by the Commissioner on application by a dealer or any other person.

(2) The Commissioner shall decide the question after giving the parties to the dispute a reasonable opportunity to put forward their case and produce evidence and after considering such evidence and hearing the parties.

(3) Every application by a dealer or any other person other than an officer acting on behalf of the Government under sub-section (1) shall be in such form as may be prescribed and shall be accompanied by a fee of five hundred rupees.

(4) Where any question arises from any order already passed or any proceedings recorded under this Act, or any earlier law no such question shall be entertained for determination under sub-section (1).

(5) Every order issued by the Commissioner under sub-section (1) shall, subject to the provisions of section 62, be final and binding on the applicant and all authorities subordinate to the Commissioner including Deputy Commissioner (Appeals) :

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98. *Kerala General Sales Tax Act, 1963 (15 of 1963) to have limited application.*— (1) From the date of commencement of this Act, the Kerala General Sales Tax Act, 1963 (15 of 1963) shall apply only in respect of goods included in the Fourth Schedule to this Act.

(2) Goods taxable under the said Act at the point of last purchase in the State, which are held as closing stock on the date preceding the date of coming into force of this Act, shall be deemed to have acquired the quality of last purchase under the provisions of the Kerala General Sales Tax Act, 1963 on such date and tax shall be levied accordingly.

(3) Notwithstanding anything in sub-section (1), Government may permit the use of the registration certificates issued under the provisions of the said Act and also of such forms prescribed by the rules made thereunder by any dealer to whom the provisions of this Act applies, till the thirtieth day of June, 2005.

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SCHEDULES

FIRST SCHEDULE (Exempted goods)

[See Section 6(4)]

Sl.No.	Description of Goods	HSN Code
(1)	(2)	(3)
1	Agricultural implements manually operated or animal driven	
	(1) Spades and shovels	8201.10.00
**	**	**
	(am) Paddy seeder	****
**	**	**
7	Brooms and brushes of a kind used for floor clearing and toilet clearing	****
**	**	**
27	Khadi Cloth, garments and made ups	****
**	**	**
35	Palm gur and Palm jaggery	*****
**	**	**
38	Printed forms of court, electoral rolls and P.S.C. applications	*****
**	**	**

SECOND SCHEDULE

Rate 1%

(See section 6(1) (a)]

Sl. No.	Description of Goods	HSN Code
(1)	(2)	(3)
1	Bullions	
(1)	Silver	7106.91.00
(2)	Gold	7108.12.00

(1)	(2)	(3)
(3)	Platinum	7110.11.10
(4)	Palladium	7110.21.10
(5)	Rhodium	7110.31.00
(6)	Iridium, Osmium and Ruthenium	7110.41.00

THIRD SCHEDULE (4%)

[See section 6 (1) (a)]

Sl.No.	Description of Goods	HSN Code
(1)	(2)	(3)
1	Agricultural and Horticultural implements not operated manually or not driven by animal and parts thereof ;	
(1)	Agricultural, horticultural or forestry machinery for soil preparations or cultivation, lawn or sports-ground rollers	8432
(2)	Harvesting or threshing machinery, including straw or fodder balers, grass or hay mowers, machines for clearing, sorting, or grading eggs, fruits, or other agricultural produce	8433
**	**	**
3	Articles and other utensils of aluminium, brass, bronze, copper, cadmium, lead, zinc, iron or steel, nickel, Tin, and other base metals other than those specified in any other Schedule	
(1)	Aluminium	
	(a) Bars, rods profiles including Aluminium Conductors Steel	
**	**	**

(1)	(2)	(3)
	(i) Cooking or heating apparatus of a kind used for domestic purposes, non-electric, and parts thereof, of copper	7417
**	**	**
4	Articles of gold, silver and platinum group of metals other than Jewellery falling under Second Schedule :	
	(1) Articles of goldsmiths' or silversmiths' wares and parts thereof of precious metal or of metal clad with precious metal	7114
	(2) Other articles of precious metal or of metal clad with precious metal	7115
	(3) Silver, semi-manufactured	7106.92
	(4) Gold, semi-manufactured	7108.13.00
	(5) Waste and scrap of precious metals	7112
**	**	**
7	Bakery products, sweets, confectionery and other food products other than those sold under brand name registered under The Trade Marks Act, 1999	*****
**	**	**
18	Bricks of all kinds including hollow bricks, brickbats, jhama, Fly ash bricks, Refractory bricks, asphaltic roofing, earthen tiles, kiln burnt roofing tiles, flooring tiles :	

(1)	(2)	(3)
(1)	Bricks, blocks, tiles and other ceramic goods of siliceous fossil meals (for example, kieselguhr, tripolite or diatomite) or of similar siliceous earths	
	(a) Bricks	6901.00.10
	(b) Blocks	6901.00.20
	(c) Kiln burnt flooring, roofing and earthen tiles	6901.00.30
	(d) Others	6901.00.40
(2)	Fly ash bricks	6815.99.10
(3)	Refractory bricks	6902
(4)	Asphaltic roofing, ridges	6807
(5)	Cement bricks including hollow bricks	6810.11.10
(6)	Others	6901.00.90
	**	**
51A	Gold, Silver and Platinum Ornaments, new and old :	
(1)	Silver Jewellery with filigree work	7113.11.10
(2)	Silver Jewellery studded with gems	7113.11.20
(3)	Other articles of silver Jewellery	7113.11.30
(4)	Gold Jewellery, unstudded	7113.19.10
(5)	Gold Jewellery, set with pearls	7113.19.20
(6)	Gold Jewellery, set with diamonds	7113.19.30
(7)	Gold Jewellery set with other precious and semi precious stones	7113.19.40
(8)	Platinum unstudded	7113.19.50
(9)	Gold coin	
	**	**

(1)	(2)	(3)
55	Handmade soaps other than those mentioned in the First Schedule at the point of sale by dealers whose annual turnover doesnot exceed rupees two crores	****
**	**	**
59A	All medical and diagnostic equipments and Hospital instruments, apparatus, appliances, tools and aids used exclusively in medical, surgical, dental, physiotherapy and veterinary sciences	*****
**	**	**
75	Khoya/Khoa	*****
**	**	**
79	Life saving devices : (1) Pace makers for stimulating heart muscles, including parts and accessories (2) Heart valve (3) Cardiac Stents	9021.50.00 ****
**	**	**
83	Machinery of all kinds (other than those specifically mentioned in this schedule or in any other schedule : (1) Machinery, plant or laboratory equipment, whether or not, electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasterurising, steaming, drying, evaporating, vapourising, condensing or cooling,	

(1)	(2)	(3)
	other than machinery or plant of a kind used for domestic purposes instantaneous or storage water heaters non-electric.	
	(a) instantaneous gas water heaters	8419.11
	(b) medical, surgical or laboratory sterilisers	8419.20
	(c) dryers for agricultural products	8419.31.00
	(d) dryers for wood, paper pulp or paper board	8419.32.00
	(e) distilling or rectifying plant	8419.40
	(f) heat exchange units	8419.50
	(g) machinery for liquefying air or other gas	8419.60.00
	(h) machinery for making hot drinks or for cooking or heating food	8419.81
	(i) pasturizers	8419.89.50
	(j) vacuum-vapour plant for deposition of metals	8419.89.80
**	**	**
	(k) parts	84.19.90
**	**	**
(19)	all kinds of printing machinery and parts thereof	*****
**	**	**
	List A,—	
**	**	**
“144.	Soft wood, namely kattadi, vatta, pala, matti and elavu.	*****
**	**	**