

Thirteenth Kerala Legislative Assembly

Bill No. 109

**THE KERALA LOCAL AUTHORITIES ENTERTAINMENTS TAX
(AMENDMENT) BILL, 2012**

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2012

KERALA NIYAMASABHA PRINTING PRESS.

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further to amend the Kerala Local Authorities Entertainments Tax Act, 1961.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Local Authorities Entertainments Tax Act, 1961 for the purposes hereinafter appearing ;

BE it enacted in the Sixty-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Local Authorities Entertainments Tax (Amendment) Act, 2012.

(2) It shall come into force at once.

2. *Amendment of section 5.*—In the Kerala Local Authorities Entertainments Tax Act, 1961 (20 of 1961) (hereinafter referred to as the principal Act), in section 5,—

(i) after clause (a) of sub-section (1), the following clause shall be inserted, namely:—

“(aa) with a ticket in the electronic form, indicating the proper tax for such ticket, generated out of an electronic device with an application software approved by the Government having the facility for access and verification of any data or information in respect of the tax due to the local authority, as and when required by any officer authorised by the local authority; or” ;

(ii) to sub-section (1), the following proviso shall be added, namely:—

“Provided that the Government may, by notification in the Gazette, specify that the admission to any class or classes of entertainments or to any place or places where an entertainment is held, shall be made only with a ticket under clause (aa) of sub-section (1) and thereupon no ticket under clause (a) shall be issued for admission to such entertainment.”.

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

“(3) For the purpose of installing the electronic devices with the hardware and application software required for generating the tickets in the electronic form as provided in clause (aa) of sub-section (1) and for the maintenance of such devices, an amount at such rate and in the manner as may be specified in the rules made by the Government shall be levied and collected towards service charges along with the ticket.”.

3. *Amendment of section 6.*—In section 6 of the principal Act,—

(i) in sub-section (1), after the word, letter and brackets “clause (a)”, the words, letters and brackets “or clause (aa)” shall be inserted;

(ii) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) Notwithstanding anything contained in any other provisions of this Act, where the owner of a cinema theatre is liable to pay contribution to the Kerala Cultural Activists’ Welfare Fund under the Kerala Cultural Activists’ Welfare Fund Act, 2010 (6 of 2011), the proprietor of such cinema theatre who is liable to pay tax under this Act shall, before effecting payment of tax, produce the receipt of remittance of the contribution towards the said welfare fund due up to the preceding month and he shall also produce the receipt of payment of service charge payable under the law for the time being in force, to the Chalachithra Academy and the Kerala State Film Development Corporation, before the local authority concerned.

(5) No tax under this Act shall be collected unless the receipts of payment of contribution towards the welfare fund and the service charges mentioned in sub-section (4) are produced.

(6) Notwithstanding anything contained in the Cinemas (Regulation) Act, 1958 (32 of 1958), or in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or in the Kerala Municipality Act, 1994 (20 of 1994), no licence or permit for conducting a cinema theatre and exhibition thereof shall be renewed by the local authority concerned unless the proprietor of such theatre has remitted the entertainment tax due up to the preceding month.”.

4. *Amendment of section 11.*—In section 11 of the principal Act, after clause (b) of sub-section (2), the following clause shall be inserted, namely:—

“(c) for the fixation of the rate of service charges and the manner in which it is to be collected and paid towards installation and maintenance of hardware and software applications for generating tickets in the electronic form under sub-section (3) of section 3.”.

STATEMENT OF OBJECTS AND REASONS

The Government have received various complaints about evasion of huge amount of entertainments tax due to the local authorities from the cinema theatres in the State. Accordingly, the Government examined the matter and found that the present system of levy of entertainments tax with a ticket stamped with an impressed, embossed, engraved or adhesive stamp issued by the local authority indicating the tax for such ticket is not sufficient to prevent the tax evasion. Therefore, the Government decided to introduce the system of issuing tickets in the electronic form, for admission to the entertainments as may be notified by the Government, so as to prevent tax evasion. In order to meet the expenses relating to installation of electronic devices for the said purpose and the maintenance of such devices, the Government have also decided to collect an amount towards service charges along with the ticket at such rate as may be specified by Rules made under the Act.

2. The Government have also found that owners of certain theatres do not pay the contribution payable by them towards the Kerala Cultural Activists' Welfare Fund and the service charges payable to the Chalachithra Academy and the Kerala State Film Development Corporation, in time. Therefore, in order to ensure such payment in time, the Government have decided that no entertainments tax shall be collected from such persons unless receipts of payment of such dues are produced at the time of payment of entertainments tax and if no such tax has been paid, the licence or permit for conducting the cinema theatre and exhibition thereof shall not be renewed by any local authority.

3. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The proviso proposed to be added to sub-section (1) of section 5 of the Kerala Local Authorities Entertainments Tax Act, 1961 (20 of 1961) by sub-clause (ii) of clause 2 of the Bill seeks to empower the Government to specify the entertainments or classes of entertainments or place or places where entertainment is held, in which admission shall be made only with a ticket in the electronic form.

2. Sub-section (3) proposed to be inserted in section 5 of the said Act by sub-clause (iii) of clause 2 of the Bill seeks to empower the Government to prescribe the rate of service charges for the purpose of installing electronic devices with hardware and application software for generating electronic ticket and for their maintenance.

3. Clause (c), proposed to be inserted after clause (b) of sub-section (2) of section 11 of the said Act, by clause 4 of the Bill seeks to empower the Government to make rules for the fixation of the rate of service charges and the manner in which it is to be collected and paid towards installation and maintenance of hardware and software applications for generating ticket in the electronic form.

4. The matters in respect of which rules may be made or notifications may be issued are matters of procedure and are of routine or of administrative in nature. Further, the rules after they are made, will be subject to scrutiny by the Legislative Assembly. The delegation of legislative power is, therefore, of a normal character.

MANJALAMKUZHI ALI.

EXTRACT OF THE RELEVANT PORTIONS FROM THE KERALA LOCAL
AUTHORITIES ENTERTAINMENTS TAX ACT, 1961
(20 OF 1961)

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5. *Admission of persons to entertainments subject to tax.*—(1) Save in the cases referred to in section 4 and section 6A, no person shall be admitted for payment to any entertainment where the price for admission is subject to entertainments tax except—

(a) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp issued by the local authority indicating the proper tax for such ticket; or

(b) in special cases, with approval of the local authority, through a barrier which, or by means of a mechanical contrivance which, automatically registers the number of persons admitted.

Unless the proprietor of the entertainment has made arrangements approved by the local authority for furnishing returns of the payments for admission to the entertainment and has given security approved by the local authority for the payment of the entertainment tax.

(2) Nothing contained in sub-section (1) shall be deemed to preclude the local authority from requiring security from the proprietor of an entertainment for the payment of the entertainments tax in any other case.

6. *Manner of payment of tax.*—(1) The entertainments tax shall be levied in respect of each person admitted for payment and in the case of admission by ticket, shall be paid by means of a ticket referred to in clause (a) of sub-section (1) of section 5, and in the case of admission otherwise than by ticket, shall be calculated and paid on the number of admissions.

(2) The entertainments tax in the case of admission otherwise than by ticket shall be recoverable from the proprietor.

(3) Where the payment of the price for admission to an entertainment is made wholly or partly by means of a lump sum paid as a subscription or contribution to any institution, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, the entertainments tax shall be paid on the amount of the lump sum, but where the local authority is of the opinion that the payment of a lump

sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment or covers admission to an entertainment during any period during which the tax has not been in operation, the tax shall be levied on such amount as appears to the local authority to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

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11. *Power of the Government to make rules.*—(1) The Government may make rules to carry out all or any of the purposes of this Act, not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power they may make rules,—

(a) for the composition and consolidated payment of tax under section 4; and

(b) for the presentation and disposal of application for exemption from payment of the entertainments tax.

(3) In making any rules the Government may provide that a breach thereof shall punishable with fine which may extend to one hundred rupees.

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