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**Thirteenth Kerala Legislative Assembly**

**Bill No. 396**

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**THE KERALA FINANCE BILL, 2016**

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**Thirteenth Kerala Legislative Assembly**

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**THE KERALA FINANCE BILL, 2016**

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A

BILL

*to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2016–2017.*

*Preamble.*—WHEREAS, it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2016–2017;

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

1. *Short title.*—This Act may be called the Kerala Finance Act, 2016.

2. *Amendment of Act 11 of 1957.*—In the Kerala Surcharge on Taxes Act, 1957 (11 of 1957), in section 3,—

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

“(1AA) The tax payable under section 6 of the Kerala Value Added Tax Act, 2003 (30 of 2004), shall, with respect to the sale of water, soda, soft drinks, fruit juices and other beverages whether aerated or not, intended for human consumption and sold in containers of plastic but excluding those sold in such containers of and above 20 litres, be increased by a surcharge at the rate of five per cent and the same shall be paid over to the Government and further, the provisions of the Kerala Value Added Tax Act, 2003 (30 of 2004) excluding those related to input tax credit and special rebate shall apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act.”

(b) in sub-section (2), for the words “sub-sections (1) and (1A)” the words “sub-sections (1), (1A) and (1AA)” shall be inserted.;

(c) in sub-section (3), for the words “sub-sections (1) and (1A)” the words “sub-sections (1), (1A) and (1AA)” shall be inserted.

3. *Amendment of Act 17 of 1959.*—In the Kerala Stamp Act, 1959 (17 of 1959),—

(1) in section 2, in clause (l), after item (vii) the following items shall be inserted, namely:—

“(viii) an agreement relating to installation of ATM machine, between banks and the land owner or renewal of such an agreement.

(ix) an agreement relating to installation of Mobile Tower, between a company and the land owner or renewal of such an agreement.”

(2) in the SCHEDULE, in serial number 5,—

(a) clauses (e) and (f) and the entries against it in column (3), shall be omitted;

(b) clause (g) shall be re-lettered as clause (e).

4. *Amendment of Act 10 of 1960.*—In the Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960),—

(a) in sub-section (1) of section 76, for the words and symbols “appellate authorities, other than Civil and Criminal Courts”, the words “appellate authorities and original suits in Civil Courts” shall, respectively, be substituted;

(b) in the SCHEDULE II, in item (iii) of Article 3,—

(i) in sub-item (C), for the entry “one per cent of the assessed income, subject to a maximum of ten thousand rupees” in column (3) against clause (c) in column (2), the entry “five per cent of the relief sought for, subject to a minimum of five hundred rupees” shall be substituted;

(ii) in sub-item (D), for the entry “one per cent of the assessed net wealth, subject to a maximum of ten thousand rupees” in column (3) against clause (c) in column (2), the entry “five per cent of the relief sought for, subject to a minimum of five hundred rupees” shall be substituted.

5. *Amendment of Act 17 of 1960.*—In the Kerala Plantation Tax Act, 1960 (17 of 1960), in the SCHEDULE I, in item 2,—

(a) in sub-item (d), the words “and up to twenty five hectares” shall be omitted;

(b) sub-item (e) and the entries against it, shall be omitted.

6. *Amendment of Act 32 of 1976.*—In the Kerala Tax on Luxuries Act, 1976 (32 of 1976), in section 4, in sub-section (1), after the first proviso, the following proviso shall be inserted, namely:—

“Provided that no tax under this Act shall be levied on hostels run directly by the educational institutions and working woman’s hostels run by religious or charitable institutions registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955.”

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

(a) in item (3), the words ‘domestic company or’ shall be omitted;

(b) for item (4) the following item shall be substituted, namely:—

“(4) In the case of domestic company or foreign company thirty per cent of the total agricultural income.”

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

(1) in section 6,—

(a) in sub-section (1),—

(i) in clause (a), in the Table, in serial number (3), for the entry in column (2), the following entry shall be substituted, namely:—

*“all types of plastic carry bags including non-woven poly propylene bags”.*

(ii) in the eleventh proviso, for the words “31st March, 2016”, the words, “31st March, 2017” shall be substituted.

(iii) for the fourteenth proviso, the following proviso shall be substituted, namely:—

“Provided also that the sale of cardamom, at the point of auction, conducted at the auction centre holding a valid license issued by the Spices Board under the Cardamom (Licensing and Marketing) Rules, 1987, shall be exempted from tax.”

(iv) after the sixteenth proviso, the following provisos and Note shall be inserted, namely:—

“Provided also that cooked food manufactured by the prisoners and sold by the Kerala Prison and Correctional Services Department shall be exempted from tax.

Provided that the tax payable under this Act in relation to the works contract of robotic or automated car parking systems, shall be five per cent.”.

*Note:*—The seventeenth proviso shall be deemed to have come into force on and from 1st day of April, 2011.

(b) in sub-section (5),—

(i) for the words “sixty lakh rupees”, the words “seventy five lakh rupees” shall be substituted;

(ii) in the third proviso, for the words “sixty lakh rupees”, the words “seventy five lakh rupees” shall be substituted;

(iii) in the sixth proviso, for the words “sixty lakh rupees”, the words “seventy five lakh rupees” shall be substituted;

(c) in sub-section (7), in clause (b), the following explanation shall be inserted, namely:—

*“Explanation:*—For removal of doubts it is hereby clarified that the building materials referred above shall include basic building materials and other goods essentially required to make the building effectively functional and capable of being used by the unit, depending on the activity carried out by the said unit.”

(2) in section 8, in clause (a), in sub-clause (ii) in the third proviso, the following words shall be added at the end, namely:—

“and with respect to works contract awarded by Government of Kerala, Kerala Water Authority or Local Authorities up to 31st March, 2016.”

(3) in section 11, in the proviso to sub-section (5), the words, letters and figures, “for the period up to 30th September, 2010”, shall be omitted.

(4) after section 25C, the following section shall be inserted, namely:—

*“25D. Special provision for bakery dealers to settle arrear.*—Notwithstanding anything contained in this Act, a dealer in bakery products, sweets, confectionary and other food products sold under brand name registered under the Trade Marks Act, 1999, who had not remitted the tax as per the prescribed rate, for the period up to 2013-14, may opt for remitting the differential amount of tax on or before 30th June, 2016 and those who opt for payment of tax under this scheme will be exempted from payment of interest and penalty due thereon subject to such conditions and restrictions as may be prescribed.”

(5) in the SCHEDULES,—

(a) in First Schedule,—

(i) in serial number 2, after item (9), the following items shall be inserted, namely:—

“(10) Braille Printer \*\*\*\*\*

(11) Assistive devices for visually challenged persons like white cane and electronic cane. \*\*\*\*\*”

(ii) in serial number 9A,—

(a) in the entry against it in column (2), the following words shall be added at the end, namely:—

“with or without MS-rod and MS-flat”

(b) the following Note shall be inserted, namely:—

“*Note*:—This entry shall be deemed to have come into force on and from the 1st day of April, 2005.”

(iii) after serial number 11A and the entries against it in column (2) and (3), the following serial number and entries shall, respectively, be inserted namely:—

“11B. Cleaning liquids for removing pesticides residue from vegetables, manufactured by units using the technology developed by Kerala Agricultural University or other recognized institution.”

(iv) for serial number 16, and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be substituted, namely:—

“16. Earthen pots made from earth clay including flowerpots, receptacles, statues and earthen oven. \*\*\*\*\*”

(b) in Third Schedule, in serial No. 69, in item No. (29) after sub-item (g), and the entries against it in columns (2) and (3), the following sub-item, entry and Note shall, respectively be, inserted, namely:—

“(g) Mobile phone charger sold along with mobile phone in sealed pack. \*\*\*”

*Note.*—This entry shall be deemed to have come into force on and from the 1st day of April, 2005.”

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

It is hereby declared that it is expedient in the public interest that all the provisions of this Bill shall have effect on and from the 1st day of April, 2016 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 the Government of Kerala for the financial year 2016-2017 as announced in paras 432 to 440, 442, 444, 445, 449, 450, 453 and 454 of the Budget Speech 2016-2017, namely:—

1. Kerala Surcharge on Taxes Act, 1957 (11 of 1957)
2. The Kerala Stamp Act, 1959 (17 of 1959)
3. The Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960)
4. Kerala Plantation Tax Act, 1960 (17 of 1960)
5. The Kerala Tax on Luxuries Act, 1976 (32 of 1976)
6. The Kerala Agricultural Income Tax Act, 1991 (15 of 1991)
7. The Kerala Value Added Tax Act, 2003 (30 of 2004)

### 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

Clause 8 sub-clause (4) of the Bill, which proposes to insert a new section 25D in the Kerala Value Added Tax Act, 2003 (30 of 2004), seeks to empower the Government to prescribe the conditions and restrictions under which payment of interest and penalty will be exempted to dealers in bakery products, sweets, confectionery and other food products sold under brand name registered under the Trade Marks Act, 1999, who had not remitted the tax as per the prescribed rate, for the period up to 2013-14 and who opted for payment of tax under the scheme as per the said provision.



The matter in respect of which rules are to be made are either administrative in nature or matters of procedure and are of routine in nature. 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.

OOMMEN CHANDY

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

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3. *Levy of surcharge on sales and purchase taxes.*—(1) The tax payable under sub-section (1) of section 5 of the Kerala General Sales Tax Act, 1963, by a dealer in foreign liquor shall be increased by a surcharge at the rate of ten per cent, and the provisions of the Kerala General Sales Tax Act, 1963 shall apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act)

(1A) The tax payable under sub-sections (1) and (2) of section 6 of the Kerala Value Added Tax Act, 2003 (30 of 2004), other than declared goods as defined in section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall, in the case of national or multinational companies functioning in the State as retail chains or direct marketing chains who import not less than fifty per cent of their stock from outside the State or Country and not less than seventy-five per cent of whose sales are retail business, and whose total turnover exceeds five crore rupees per annum but excluding such class of dealers of certain commodities, which may be notified by the Government from time to time, be increased by a surcharge at the rate of ten per cent, and the provisions of the Kerala Value Added Tax Act, 2003 (30 of 2004) shall apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act.

*Explanation I.*—For the purpose of this section big retail chains and direct marketing chains mean retail sales outlets or part of retail sales outlets of companies which share a registered business name or commercial name by way of franchisee agreements or otherwise with standardized sales, purchase and promotional activities.

*Explanation II.*—For the purpose of this section 'retail business' shall mean sales to persons other than registered dealers.

(2) Notwithstanding anything contained in sub-section (1) of section 22 of the Kerala General Sales Tax Act, 1963 and in sub-section (1) of section 30 of the Kerala Value Added Tax Act, 2003, no dealer referred to in sub-section (1) and (1A) shall be entitled to collect the surcharge payable under the said sub-section.

(3) any dealer who collects the surcharge payable under sub-sections (1) and (1A) in contravention of the provisions of sub-section (2) shall be punishable with fine which may extend to one thousand rupees and no Court below the rank of a Magistrate of the First Class shall try any such offence.

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EXTRACT FROM THE RELEVANT PORTIONS OF  
THE KERALA STAMP ACT, 1959  
(17 OF 1959)

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

(a) “bond” includes—

- (i) any instrument whereby a person obliges himself to pay money to another, on conditions that the obligation shall be void if a specified Act is performed, or is not performed as the case may be;
- (ii) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and
- (iii) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another;

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(1) “lease” means a lease of immovable property, and includes also—

- (i) Marayapattom;
- (ii) Kanapattom;
- (iii) an agreement or other undertaking in writing not being a counterpart of a lease, to cultivate, occupy, or pay or deliver rent for immovable property;
- (iv) an agreement or other undertaking in writing, executed by the renters of abkari and opium farms;
- (v) any instrument by which tolls of any description are let;
- (vi) any writing on an application for a lease intended to signify that the application is granted; and
- (vii) a patta.

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## THE SCHEDULE

<i>Sl. No.</i>	<i>Description of instrument</i>	<i>Proper Stamp Duty</i>
(1)	(2)	(3)
1	<p>Acknowledgement of a debt exceeding twenty rupees in amount or value written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass book) or on a separate piece of paper when such book or paper is left in the creditor's possession:</p> <p>provided that such acknowledgement does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property:—</p> <p>When the amount or value does not exceed Rs. 1,000:</p> <p>When it exceeds Rs. 1,000:</p>	<p>Five rupees</p> <p>Ten rupees</p>
	**	**
5	Agreement or memorandum of an agreement—	
	(a) if relating to the sale of a bill of exchange:	One rupee
	**	**
	(e) If relating to installation of ATM machine, between a bank and the land owner or renewal thereof	One thousand two hundred and fifty rupees per year in panchayat areas and two thousand and five hundred rupees per year in other areas.
	(f) If relating to installation of Mobile Tower, between a company and the land owner or renewal thereof	Five thousand rupees per year
	(g) If not otherwise provided for	Two hundred rupees
	**	**



(1)	(2)	(3)
	(C) From an order of the Appellate Tribunal under the Income Tax Act, 1961,—	
	(a) Where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates is one lakh rupees or less	Five hundred rupees
	**	**
	**	**
	**	**
	(c) Where such income exceeds two lakh rupees	One per cent of the assessed income, subject to a maximum of ten thousand rupees.
	**	**
	**	**
	**	**
	(D) From an order of the Appellate Tribunal under the Wealth Tax Act, 1957,—	
	(a) Where the total net wealth of the assessee as computed by the Assessing Officer, in the case to which the appeal relates is one lakh rupees or less	Five hundred rupees
	**	**
	**	**
	**	**

EXTRACT FROM THE RELEVANT PORTIONS OF THE  
KERALA PLANTATION TAXES ACT, 1960  
(17 OF 1960)

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## SCHEDULE I

[See Section 3 (1)]

	<i>Rate</i>
1. Where the aggregate extent of plantations held by a person does not exceed two hectares	Nil
2. Where the aggregate extent of plantations held by a person is,—	
(a) above two hectares and up to four hectares	two hundred rupees for each one hectare above two hectares
(b) above four hectares and up to eight hectares	three hundred rupees for each one hectare above two hectares
(c) above eight hectares and up to fifteen hectares	four hundred rupees for each one hectare above two hectares
(d) above fifteen hectares and up to twenty five hectares	five hundred rupees for each one hectare above two hectares
(e) above twenty five hectares	seven hundred rupees for each one hectare above two hectares

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

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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 the 'luxury tax', in respect of any luxury provided,

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

(ii) by Direct-To-Home (DTH) Service Provider;

(ia) in a serviced apartment;

(iii) in a hospital; and

(iv) in a home stay :

Provided that the sub-section shall not apply to

(i) halls and auditorium located within the premises of places of worship owned by religious institutions;

(ii) to the retiring rooms and dormitories in the railway stations managed by Indian Railways.

(iii) to dormitories

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

(15 OF 1991)

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SCHEDULE  
(See Section 3)

RATES OF AGRICULTURAL INCOME TAX

- (1) In the case of person other than a company or co-operative society,
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|---|---|
| (a) Where the total agricultural income does not exceed Rs. 40,000                          | Nil   |
| (b) Where the total agricultural income exceeds Rs. 40,000 but does not exceed Rs. 60,000   | 10 per cent of the amount by which the total agricultural income exceeds Rs. 40,000                   |
| (c) Where the total agricultural income exceeds Rs. 60,000 but does not exceed Rs. 1,00,000 | Rs. 2,000 plus 20 per cent of the amount by which the total agricultural income exceeds Rs. 60,000    |
| (d) Where the total agricultural income exceeds Rs. 1,00,000                                | Rs. 10,000 plus 30 per cent of the amount by which the total agricultural income exceeds Rs. 1,00,000 |
- (2) In the case of a firm, thirty-five per cent of the total agricultural income
- (3) In the case of a domestic company or co-operative society,—
- |   |  |
|---|--|
| (a) Where the total agricultural income does not exceed Rs. 25,000                          | 35 per cent of the total agricultural income |
| (b) Where the total agricultural income exceeds Rs. 25,000 but does not exceed Rs. 1,00,000 | 40 per cent of the total agricultural income |
| (c) Where the total agricultural income exceeds Rs. 1,00,000                                | 45 per cent of the total agricultural income |
| (d) Where the total agricultural income exceeds Rs. 3,00,000                                | 50 per cent of the total agricultural income |
- (4) In the case of foreign company, eighty per cent of the total agricultural income.

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

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INCIDENCE AND LEVY OF TAX

6. *Levy of Tax on sale or purchase of goods.*—(1) 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 or any multi-level marketing entity, their distributor and/or agent engaged in multi-level marketing whatever be his total turnover for the year, shall be liable to pay tax on his sales or purchase 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 goods specified below, mentioned in column(4), at all points of sale of such goods within the States namely:—

<i>Sl. No.</i>	<i>Description of Goods</i>	<i>HSN Code</i>	<i>Rates of tax in Percentage</i>
(1)	(2)	(3)	(4)
(1)	Cigars, cheroots, cigarillos and cigarettes of tobacco or of tobacco substitutes	2402	22
(2)	Aerated branded soft drinks, excluding soda	***	20
(3)	Carry bags made of plastic including poly propylene, which have a vest type selfcarrying features to carry commodities	***	20
(3A)	****	***	***
(3B)	****	***	***
(4)	****	***	***
(5)	****	***	***
(6)	****	***	***
(7)	****	***	***

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(f) In the case of transfer of goods involved in execution of works contract, where the transfer is not in the form of goods, but in some other form, at the rate of 14.5 per cent and when the transfer is in the form of goods at the rates prescribed under the respective Schedules:

Provided that where the sale is to the Administrator, Union Territory of Lakshadweep, Laccadive Co-operative Marketing Federation, Kozhikkode or the Lakshadweep Harbour Works and registered dealers certified by the Administrator, Union Territory of Lakshadweep, the tax payable under clause (d) shall be at the rate of five per cent, subject to such conditions as may be prescribed:

Provided further that a bar attached hotel, as defined under explanation to clause (c) of section 8 or a dealer in petroleum products shall be liable to pay tax under this sub-section if his total turnover under this Act and the total turnover under the Kerala General Sales Tax Act, 1963 (15 of 1963) together is not less than the limit specified under this sub-section:

Provided also that where the total turnover of a dealer, other than an importer or casual trader or agent of a non-resident dealer or dealer in jewellery of gold, silver and platinum group metals and silver articles or contractor, exceeds ten lakh rupees for the first time during the course of an year, such dealer shall be liable to pay tax under this sub-section only on the turnover in excess of ten lakh rupees; but he shall be liable to pay tax irrespective of the total turnover in any subsequent year:

Provided also that in respect of works contracts executed under the Sampurna Gramin Rosghar Yojana or the beneficiary committees using the Member of Parliament/Member of Legislative Assembly Funds or Natural Calamity Relief Funds or Sarva Siksha Abhiyan Funds, or funds of Local Authorities or Command Area Development Authority and OFD Works through Beneficiary Farmers' Associations or Karshaka Samithy where the total amount in respect of individual contract does not exceed ten lakh rupees, the tax payable under clause (f) above shall be five per cent; under the Jalanidhi project (KRWSA), the tax payable under clause (f) above shall be four per cent

irrespective of the total amount in respect of individual contract; and the beneficiary Committees shall be entitled to receive payment even without taking registration under the Act:

Provided also that, where,—

(a) the sale is to or by Canteen Stores Department, Central Police Canteen, Indian Naval Canteen Service and National Cadet Corps Canteen; or

(b) the sale is by Military, Naval, Air Force or by the one subsidiary Canteen each that may be established by the Kerala Police in each districts of the State and affiliated to the Central Police Canteen, of the goods purchased from Canteen Stores Department, Central Police Canteen or from direct suppliers authorised by them, as the case may be; and

(c) in case of motor vehicles, the sale is to Defence personnel or ex-servicemen on production of authorization duly issued by the authorized officer of the Canteen Stores Department, Indian Naval Canteen Stores or Air Force Canteen, as the case may be;

the tax payable under (a), (b) or (c) above shall, subject to such conditions and restrictions as may be prescribed, be half the rate applicable to such goods:

Provided also that in respect of sale of fuel and lubricants to foreign-going vessels, other than fishing vessels, the tax payable under clause (a) or (d) above shall, subject to conditions and restrictions as may be prescribed, be half per cent:

Provided also that where sale of goods other than petroleum products, manufactured in the State is to Railways, Kerala State Electricity Board, Kerala State Road Transport Corporation or Kerala Water Authority, the tax payable under clause (d) above shall, subject to such conditions and restrictions as may be prescribed, be at five per cent:

Provided also that sculptural statues of national leaders and social reformers shall be exempted from tax payable under clause (e) and (f) of sub-section (1) of section 6:

Provided also that the tax payable under clause (f), in respect of transfer of declared goods not in the form of goods but in some other form, shall be at the rate prescribed under the respective Schedules:

Provided also that the rate of tax on the sale of used motor vehicles shall be at 0.5 per cent and that no tax is payable under sub-section (2):

Provided also that the turnover relating to the sale of Natural Gas in any form shall be exempted from tax, for the period from 4th February, 2015 to 31st March, 2016:

Provided also that cooked food and beverages served in the house-boat paying compounded tax under the Kerala Tax on Luxuries Act, 1976 (32 of 1976) shall be exempted from tax with effect from 1st April, 2006:

Provided also that payable on Ayurvedic Cosmetic products manufactured under a drug license granted under the Drugs and Cosmetic products manufactured under a Drug License and Cosmetics Act, 1940 (Central Act 23 of 1940) containing added medicaments having subsidiary therapeutic or prophylactic uses and those notified under clause (d) of sub-section (1) of section 6, for the period on and from the 1st day of April, 2005 to the 12th day of November, 2009 shall be at four per cent:

Provided also that the tax on the sale of cardamom, at the point of auction only, conducted at the auction centre holding a valid license issued by the Spices Board under the Cardamom (Licensing and Marketing) Rules, 1987 shall be at the rate of two per cent:

Provided also that cooked food and beverages sold by Milk Suppliers' Co-operative Society registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) through their canteens established at their places of business shall be exempted from tax with effect from 31st April, 2011:

Provided also that the rate of tax for the sale of furnace oil to Coastal Cargo Vessel as fuel, shall, subject to such conditions and restrictions as may be prescribed, be 5 per cent:

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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 any 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 within the State; or

(e) a dealer covered by Sub-section (1A); or

(f) a contractor,

whose total turnover for a year is below sixty 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 Sales 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 sixty 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 sub-section, if his total turnover is less than ten lakh rupees:

Provided also that dealers covered under this sub-section whose total turnover for a year is below rupees twenty lakhs, may pay a lump sum amount of rupees two 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:

Provided also that notwithstanding anything contained in the Act or rules made thereunder, if the turnover of a dealer, who opted for payment of tax under this sub-section, has exceeded the turnover limit during the course of an year, he shall be eligible for input tax credit on the turnover in excess of sixty lakh rupees.

*Note*:—The sixth proviso shall be deemed to have come into force on and from the 1st day of April, 2005 irrespective of any amendments made in the turnover limit specified in this sub-section.

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(7) Notwithstanding anything contained in sub-section (1),

(a) any authorized retail or wholesale distributor dealing 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 subject to such conditions or restrictions, as may be prescribed, be exempted from tax:

Provided that the exemption covered by this clause shall be applicable to a deemed sale involved in a works contract executed through a sub-contractor also.

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

(a) (i) any works contractor other than those who undertake interior decoration and furnishing contracts, electrical, refrigeration or air conditioning contracts or contracts relating to supply and installation of plant, machinery, rolling shutters, cranes, hoists, elevators (lifts), escalators, generators, generating sets, transformers, weighing machines, air conditioners and air coolers, deep freezers, laying of all kinds of tiles (except brick tiles), slabs and stones (including marble) who imports any goods into the State from other States or Country for incorporation in the works contracts and/or who is registered under the provisions of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), may, at his option, instead of paying tax in accordance with the provisions of section 6, pay tax at the rate of six per cent of the whole contract amount along with tax under sub-section (2) of section 6.

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(ii) any works contractor not falling under the description in 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 per cent of the whole contract amount along with tax under sub-section (2) of section 6:

Provided 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 further that notwithstanding anything contained 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 an year, any, instead of filing separate application for compounding for individual works, file a single option for payments 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 compounded under this clause, and which remains unexecuted fully or partly as on 31st March, 2014, the contractor may continue to pay tax in respect of such works in accordance with the provisions of this clause as existed when he had opted for compounding up to 31st March, 2015.



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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;

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(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 30th September, 2010, 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.

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“25C. *Special provision regarding assessment of dealers paying presumptive tax.*—Notwithstanding anything contained in sub-section (4) of section 11 or sub-section (2) of section 12, if any assessment or other proceeding is initiated by the assessing authority denying the eligibility of a dealer to pay presumptive tax for violation of conditions enumerated in sub-section (5) of section 6, such dealer shall be granted input tax credit or special rebate, as the case may be.”;

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## SCHEDULES

## FIRST SCHEDULE

## Goods Exempted from tax under sub-section (4) of Section 6

<i>Sl. No.</i>	<i>Description of Goods</i>	<i>HSN Code</i>
(1)	(2)	(3)
1	Agricultural implements manually operated or animal driven	
	(1) Spades and shovels	8201.10.00
**	**	**
2	Aids and implements used by handicapped persons	
	(1) Orthopaedic or fracture appliances	9021.10.00
**	**	**
	(9) Intra Ocular Lens	9002.10.00
**	**	**
9A	Cement or Concrete frames for doors and Windows	****
**	**	**
11A	Clay used for the manufacture of bricks and tiles given under entry 18 of IIrd Schedule	****
**	**	**
16	Earthen pot	6914.90.00
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## THIRD SCHEDULE TAXABLE @ 5%

See Section 6(1) (a)

<i>Sl. No.</i>	<i>Description</i>	<i>HSN Code</i>
(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 cleaning, sorting, or grading eggs, fruits, or other agricultural produce	8433
**	**	**
69	IT Products	
(1)	Word processing machines, Electronic typewriters.—	
(a)	Word processing machines	8469.00.10
(b)	Electronic typewriters	8469.00.20
**	**	**
(29)	Electrical apparatus for line telephony or line telegraphy—	
(a)	Line telephone sets with cordless handsets	8517.11
**	**	**
(g)	Attachments for telephones	8517.69.70
**	**	**