



## The Kerala General Sales Tax Act, 1963

Act 15 of 1963

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## THE KERALA GENERAL SALES TAX ACT, 1963

(Act 15 of 1963)

## CONTENTS

Preamble.

Sections.

## CHAPTER I

**Preliminary**

1. Short title, extent and commencement.
2. Definitions.

## CHAPTER II

**Authorities and Appellate Tribunal**

3. Sales tax authorities.
4. Appellate Tribunal.

## CHAPTER III

**Incidence and Levy of Tax**

5. Levy of tax on sale or purchase of goods.
6. Tax under this Act to be in addition to tax under Central Act 74 of 1956 or any other law.
7. Payment of tax at compounded rates.
8. Stage of levy of taxes in respect of imported and exported goods.
9. Exemption from tax.
10. Power of Government to grant exemption and reduction in rate of tax.
11. Liability to tax of persons not observing restrictions and conditions prescribed under section 9 or notified under section 10.
12. Burden of proof.

## CHAPTER IV

**Registration and Permit**

13. Registration of dealers.
14. Procedure for registration.
15. Issue of permits.

## CHAPTER V

**Assessment, Collection and Penalty**

16. Assessment of tax.
17. Procedure to be followed by the assessing authority.
18. Provisional assessment.
19. Assessment of escaped turnover.
20. Assessment of legal representatives.
21. Liability of firms.
22. Collection of tax by dealers.
23. Payment and recovery of tax.
24. Recovery of penalty.
25. Further mode of recovery.
26. Recovery of tax when business is transferred.

## CHAPTER VI

**Inspection of Business places and Accounts and Establishment of Check Posts**

27. Maintenance of true and correct accounts by dealers.
28. Powers to order production of accounts and powers of entry, inspection, etc.
29. Establishment of check posts and inspection of goods in transit.
30. Regulation of transport of notified goods.
31. Possession and submission of certain records by owners, etc., of vehicles and vessels.
32. Forwarding agency, etc., to submit returns.
33. Banks to submit returns.

## CHAPTER VII

**Appeals, Revisions and Refunds**

34. Appeals to the Appellate Assistant Commissioner.
35. Powers of revision of the Deputy Commissioner suo motu.
36. Powers of revision of Deputy Commissioner on application.
37. Powers of revision of the Board of Revenue suo motu.
38. Powers of revision of the Board of Revenue on application.
39. Appeal to the Appellate Tribunal.
40. Appeal to the High Court.
41. Revision by the High Court.
42. Appeals, petitions and applications to the High Court to be heard by a Bench of not less than two Judges.

43. Power to rectify any error apparent on the face of the record.
44. Refunds.
45. Refund or adjustment in certain cases.

#### CHAPTER VIII

##### **Offences and Penalties**

46. Penalty for submitting untrue return, etc.
47. Composition of offences.
48. Offences by companies.

#### CHAPTER IX

##### **Miscellaneous**

49. Courts not to set aside or modify assessments except as provided in this Act.
50. Assessment, etc., not to be questioned in prosecution.
51. Bar of certain proceedings.
52. Limitation for certain suits and prosecutions.
53. Power to summon witnesses and cause production of documents.
54. Prohibition of disclosure of particulars produced before sales tax authorities.
55. Persons entitled to appear before authority.
56. Sale or purchase deemed to have taken place inside the State in certain cases.
57. Power to make rules.
58. Power to amend Schedules.
59. Certain transactions deemed to be first sale.
60. Power to remove difficulties.
61. Repeal.

The First Schedule.

The Second Schedule.

The Third Schedule.

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## ACT 15 OF 1963 \*

## THE KERALA GENERAL SALES TAX ACT, 1963

*An Act to consolidate and amend the law relating to the levy of a general tax on the sale or purchase of goods in the State of Kerala.*

*Preamble.*—WHEREAS it is expedient to consolidate and amend the law relating to the levy of a general tax on the sale or purchase of goods in the State of Kerala ;

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

## CHAPTER I

**Preliminary**

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala General Sales Tax Act, 1963.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—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 ,

(ii) “ Appellate Tribunal ” means the Appellate Tribunal appointed under section 4 ,

(iii) “ assessee ” means a person by whom tax or any other sum of money is payable under this Act, and includes every person in respect of whom any proceedings under this Act have been taken for the assessment of tax payable by him ;

(iv) “ assessing authority ” means any person authorised by the Government or by any authority empowered by them to make any assessment under this Act ,

(v) “ Board of Revenue ” means the Board of Revenue constituted under the Kerala Board of Revenue Act, 1957 ,

(vi) “ business ” includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, with or without profit motive in such trade, commerce, manufacture, adventure or concern ;

(vii) “ casual trader ” means a person who has, whether as principal, agent or in any other capacity, occasional transactions of a business nature involving the buying, selling, supply or distribution of goods in the State, whether for cash or for deferred payment, or for commission, remuneration, or other valuable consideration ,

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\* Received the assent of the Governor on the 5th day of March 1963 and published in the Gazette Extraordinary, dated the 6th March 1963.

(viii) "dealer" means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration and includes—

(a) the Central Government, a State Government, local authority, company, a Hindu undivided family, a Marumakkathayam tarwad, a family governed by the Kerala Nambudiri Act, 1958, an Aliyasanthana family, a firm, a society, a club or an association which carries on such business ;

(b) a casual trader ,

(c) a commission agent, a broker or a *del credere* agent, or an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal ,

(d) a non-resident dealer or an agent of a non-resident dealer, or a local branch of a firm or company or association situated outside the State ;

(e) a person who sells goods produced by him by manufacture, agriculture, horticulture or otherwise.

*Explanation.*—A society (including a co-operative society), club or firm or an association which, whether or not in the course of business, buys, sells, supplies, or distributes goods from or to its members for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act.

(ix) "declared goods" means goods declared by section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), to be of special importance in inter-State trade or commerce ,

(x) "Deputy Commissioner" means any person appointed to be a Deputy Commissioner of Sales Tax under section 3 ;

(xi) "food grains" means paddy, rice, wheat, maize, jowar, bajra, barley and ragi and includes such other articles as the Government may, by notification in the Gazette, specify as such ,

(xii) "goods" means all kinds of movable property (other than newspapers, actionable claims, electricity, stocks and shares and securities) and includes live-stock, all materials, commodities, and articles (including those to be used in the fitting out, improvement or repair of movable property), and all growing crops, grass or things attached to, or forming part of, the land which are agreed to be severed before sale or under the contract of sale;

(xiii) "Inspecting Assistant Commissioner" means any person appointed to be an Inspecting Assistant Commissioner of Sales Tax under section 3,

(xiv) "local authority" means a municipal council, a municipal corporation, a township committee or a panchayat,

(xv) "motor spirit" means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly to provide reasonably efficient fuel for automative or stationary internal combustion engines and includes petrol, diesel oil and other internal

combustion oils, but does not include kerosene, furnace oil, coal or charcoal;

(xvi) "permit" means a permit granted under section 15;

(xvii) "petrol" means dangerous petroleum having its flashing point below 24.4 degrees centigrade;

(xviii) "place of business" means any place where a dealer purchases or sells goods and includes—

(a) any warehouse, godown or other place where a dealer stores or processes his goods,

(b) any place where a dealer produces or manufacture goods;

(c) any place where a dealer keeps his books of account; and

(d) in any case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent,

(xix) "prescribed" means prescribed by rules made under this Act;

(xx) "registered dealer" means a dealer registered under this Act;

(xxi) "sale" with all its grammatical variations and cognate expressions means every transfer of the property in goods by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, but does not include a mortgage, hypothecation, charge or pledge.

*Explanation (1).*—A transfer of the property in the following goods, namely, tea, coffee, rubber, cardamom or timber, whether in the course of trade or business or otherwise, for cash or for deferred payment or other valuable consideration, by a person who produces the same, shall be deemed to be a sale for the purposes of this Act.

*Explanation (2).*—The transfer of property involved in the supply or distribution of goods by a society (including a co-operative society), club, firm, or any association to its members, for cash, or for deferred payment or other valuable consideration, whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act.

*Explanation (3).*—A transfer of goods on hire-purchase or other instalment system of payment shall, notwithstanding the fact that the seller retains the title in the goods as security for payment of the price, be deemed to be a sale.

*Explanation (4).*—(a) The sale or purchase of goods shall be deemed, for the purposes of this Act, to have taken place in the State, wherever the contract of sale or purchase might have been made, if the goods are within the State,—

(i) in the case of specific or ascertained goods, at the time the contract of sale or purchase is made, and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation.

(b) Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of clause (a) shall apply as if there were separate contracts in respect of the goods at each of such places.

*Explanation* (5).—Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, two independent sales or purchases shall, for the purposes of this Act, be deemed to have taken place—

(a) When the goods are transferred from a principal to his selling agent and from the selling agent to the purchaser, or

(b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found in either of the cases aforesaid—

- (i) to have sold the goods at one rate and to have passed on the sale proceeds to his principal at another rate; or
- (ii) to have purchased the goods at one rate and to have passed them on to his principal at another rate, or
- (iii) not to have accounted to his principal for the entire collections or deductions made by him in the sales or purchases effected by him on behalf of his principal; or
- (iv) to have acted for a fictitious or non-existent principal,

Provided that the deduction or addition, as the case may be, of the commission agreed upon and specified in the accounts and incidental charges incurred by the agent which are specified in the accounts and which the assessing authority considers legitimate shall not be deemed to be a difference in the rates referred to in sub-clauses (i) and (ii);

(xxii) "Sales Tax Officer" means any person appointed to be a Sales Tax Officer under section 3;

(xxiii) "State" means the State of Kerala,

(xxiv) "tax" means the tax payable under this Act;

(xxv) "taxable turnover" means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed, but shall not include the turnover of purchase or sale in the course of inter-State trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India;

(xxvi) "total turnover" means the aggregate turnover in all goods of a dealer at all places of business in the State, whether or not the whole or any portion of such turnover is liable to tax, including the turnover of purchase or sale in the course of inter-State trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India;

(xxvii) "turnover" means the aggregate amount for which goods are either bought or sold, or supplied or distributed, by a dealer, either directly or through another, on his own account or on account of others,

whether for cash or for deferred payment or other valuable consideration, provided that the proceeds of the sale by a person of agricultural or horticultural produce, grown by himself or grown on any land in which he has an interest, whether as owner, usufructuary mortgagee, tenant, or otherwise, shall be excluded from his turnover.

*Explanation (1).*—“Agricultural or horticultural produce” shall not include—

(i) such produce as has been subjected to any physical, chemical or other process for being made fit for consumption, save mere cleaning, grading, sorting, drying or dehusking,

(ii) tea, coffee, rubber, cardamom or timber.

*Explanation (2).*—Subject to such conditions and restrictions, if any, as may be prescribed in this behalf,—

(i) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before, the delivery thereof,

(ii) any cash or other discount on the price allowed in respect of any sale and any amount refunded in respect of articles returned by customers shall not be included in the turnover; and

(iii) where for accommodating a particular customer, a dealer obtains goods from another dealer and immediately disposes of the same to the said customer, the sale in respect of such goods shall be included in the turnover of the latter dealer but not in that of the former;

(xxviii) “vehicle” includes every wheeled conveyance used for the carriage of goods solely or in addition to passengers;

(xxix) “vessel” includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner,

(xxx) “year” means the financial year.

## CHAPTER II

### Authorities and Appellate Tribunal

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.

(2) The Government shall appoint as many 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, 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 Appellate Assistant Commissioner in the exercise of his appellate functions.

4. *Appellate Tribunal.*—(1) The Government shall appoint an Appellate Tribunal consisting of a Chairman and two other members to perform the functions assigned to the Appellate Tribunal by or under this Act. The Chairman shall be a person who is or has been a Judicial Officer not below the rank of a District Judge and the other two members shall possess such qualifications as may be prescribed.

(2) Any vacancy in the office of a member of the Appellate Tribunal shall be filled by the Government.

(3) (a) The functions of the Appellate Tribunal may be performed—

- (i) by a Bench consisting of all the members of the Tribunal, or
- (ii) by a Bench consisting of two members constituted by the Chairman, or
- (iii) by a Bench consisting of the Chairman and other member in the event of the office of a member other than the Chairman being vacant:

Provided that, if any case which comes up before a Bench (of which the Chairman is not a member) involves a question of law, the Bench may, in its discretion, reserve such case for decision by a Bench to be constituted under this clause of which the Chairman shall be a member.

(b) Where an appeal or application is heard by a Bench consisting of all the three members of the Tribunal and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(c) Where an appeal or application is heard by a Bench consisting of two members and the members are divided in their opinion on any point, the point shall be referred for decision to a Bench consisting of all the members.

(4) The Appellate Tribunal shall, with the previous sanction of the Government, make regulations consistent with the provisions of this Act and the rules made thereunder for regulating its procedure and the disposal of its business.

(5) The regulations made under sub-section (4) shall be published in the Gazette.

### CHAPTER III

#### **Incidence and Levy of Tax**

5. *Levy of tax on sale or purchase of goods.*—(1) Every dealer (other than a casual trader or agent of a non-resident dealer) whose total turnover for a year is not less than ten thousand rupees and every casual trader or agent of a non-resident dealer, whatever be his total turnover for the year, shall pay tax on his taxable turnover for that year,—

- (i) in the case of goods specified in the First or Second Schedule, at the rates and only at the points specified against such goods in the said Schedules, and
- (ii) in the case of other goods, at the rate of two per cent.

(2) Every dealer other than a dealer referred to in sub-section (1) whose total turnover for a year in respect of the goods specified in the First or Second Schedule is not less than two thousand five hundred rupees shall pay tax at the rate and only at the point specified against the goods in the First or Second Schedule, as the case may be, on his taxable turnover in that year relating to such goods :

Provided that where a tax has been levied under sub-section (1) or sub-section (2) in respect of the sale or purchase of goods specified in the Second Schedule and such goods are sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the tax payable by a dealer in respect of any sale of the goods mentioned in the First Schedule by such dealer to another for use by the latter as component part of any other goods mentioned in the said Schedule, which he intends to manufacture inside the State for sale, shall be at the rate of only one per cent on the taxable turnover relating to such sale :

Provided that the provisions of this sub-section shall not apply to any sale unless the dealer selling the goods furnishes to the assessing authority in the prescribed manner a declaration duly filled in and signed by the dealer to whom the goods are sold containing the prescribed particulars in a prescribed form.

(4) Notwithstanding anything contained in sub-section (1), every dealer registered under sub-section (3) of section 7 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall whatever be the quantum of his total turnover, pay tax for each year in respect of the sale of the goods with reference to the purchase of which he has furnished a declaration under sub-section (4) of section 8 of the aforesaid Central Act at the rate of two per cent of his taxable turnover in respect of the goods other than those specified in the First or Second Schedule .

Provided that this sub-section shall not apply to any dealer in respect of the sale of the goods the purchase of which is liable to tax under sub-section (1).

6. *Tax under this Act to be in addition to tax under Central Act 74 of 1956 or any other law.*—The provisions of this Act relating to taxation of successive sales or purchases inside the State, only at a single point or at one or more points, shall apply only to sales or purchases inside the State (other than sales or purchases in the course of inter-State trade or commerce) . and the tax under this Act shall be levied in addition to any tax levied under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), or any other law for the time being in force.

7. *Payment of tax at compounded rates.*—(1) Notwithstanding anything contained in sub-section (1) of section 5,—

(i) every dealer (other than a dealer in cooked food including coffee, tea and like articles served in a hotel, restaurant or any other place) whose total turnover in a year is not less than ten thousand

rupees but not more than twenty-five thousand rupees may, at his option instead of paying the tax in accordance with the provisions of that sub-section, pay tax at the following rates :—

	<i>Rate of tax</i>
(a) Where the total turnover is not less than ten thousand rupees but is less than fifteen thousand rupees	One per cent on the taxable turnover.
(b) Where the total turnover is not less than fifteen thousand rupees but is not more than twenty-five thousand rupees	One and a half per cent on the taxable turnover.

(ii) every dealer in cooked food including coffee, tea and like articles served in a hotel, restaurant, or any other place, whose total turnover in respect of such food is not less than twenty thousand rupees but is not more than fifty thousand rupees, may, at his option, instead of paying the tax in accordance with the provisions of that sub-section in respect of the turnover relating to such food, pay tax at the following rates :—

	<i>Rs.</i>
(a) Where the total turnover is not less than twenty thousand rupees but is less than twenty-five thousand rupees	.. 360
(b) Where the total turnover is not less than twenty-five thousand rupees but is less than thirty thousand rupees	.. 480
(c) Where the total turnover is not less than thirty thousand rupees but is less than forty thousand rupees	.. 540
(d) Where the total turnover is not less than forty thousand rupees but is not more than fifty thousand rupees	.. 720

(2) Any dealer whose estimated total turnover for a year is within the limits specified in clause (i) or clause (ii) of sub-section (1) may apply to the assessing authority to be permitted to pay the tax under this section and on being so permitted he shall pay the tax due in advance during the year in monthly or other prescribed instalments and for that purpose shall submit such returns and in such manner as may be prescribed. The application shall be submitted to the assessing authority within such time and in such manner as may be prescribed :

Provided that the assessing authority may, for sufficient reasons, condone the delay in case of late application.

(3) It shall be open to the assessing authority to reject any such application for permission for good and sufficient reasons to be recorded in writing after giving the dealer a reasonable opportunity of being heard.

(4) Notwithstanding anything contained in clause (i) of sub-section (1), if under any of the other provisions of this Act the sale or purchase of any goods by a dealer is subject to tax only at a lower rate, the tax payable under the said sub-section on his turnover, in so far as

the turnover or any part thereof relates to the sale or purchase of such goods, shall be calculated only at such lower rates.

(5) Notwithstanding anything contained in clause (2) of sub-section (1),—

(i) a dealer whose total turnover in a year relates only to goods specified in the First or Second Schedule or a casual trader or agent of a non-resident dealer shall not be entitled to exercise the option under the said clause ; and

(ii) a dealer whose turnover relates to the goods specified in the First or Second Schedule and also to goods other than those specified in the said Schedules shall be entitled to exercise the option under clause (2) of sub-section (1) only in respect of the turnover relating to the goods other than those specified in the First or Second Schedule, and in respect of the turnover relating to the goods specified in the First or Second Schedule, he shall be liable to pay the tax under section 5.

(6) The tax paid under sub-section (2) shall be subject to such adjustments as may be prescribed on the completion of the final assessment in the manner prescribed.

8. *Stage of levy of taxes in respect of imported and exported goods.*—Where in the case of any goods tax is leviable at one point in a series of sales or purchases, such series shall,—

(a) in the case of goods imported into the State either from outside the territory of India or from any other State in India, be deemed to commence at the stage of the sale or purchase effected immediately after the import of such goods ;

(b) in the case of goods exported out of the State to any place outside the territory of India or to any other State in India, be deemed to conclude at the stage of the sale or purchase effected immediately before the export of such goods.

9. *Exemption from tax.*—Subject to such restrictions and conditions as may be prescribed, a dealer who deals in the goods specified in the Third Schedule shall not be liable to pay any tax under this Act in respect of the sale or purchase of such goods.

10. *Power of Government to grant exemption and reduction in rate of tax.*—(1) The Government may, if they consider it necessary in the public interest, by notification in the Gazette, make an exemption, or reduction in rate, in respect of any tax payable under this Act—

(i) on the sale or purchase of any specified goods or class of goods, at all points or at a specified point or points in the series of sales or purchases by successive dealers, or

(ii) by any specified class of persons, in regard to the whole or any part of their turnover.

(2) Any exemption from tax, or reduction in the rate of tax, notified under sub-section (1),—

(a) may extend to the whole State or to any specified area or areas therein,

(b) may be subject to such restrictions and conditions as may be specified in the notification.

(3) The Government may, by notification in the Gazette, cancel or vary any notification issued under sub-section (1).

11. *Liability to tax of persons and not observing restrictions and conditions prescribed under section 9 or notified under section 10.*—If any restriction or condition prescribed under section 9 or notified under section 10 is contravened or is not observed by a dealer, the sales or purchases of such dealer may, with effect from the commencement of the year in which such contravention or non-observance took place, be assessed to tax or taxes under the appropriate provisions of this Act as if the provisions of section 9 or section 10, as the case may be, did not apply to such sales or purchases.

12. *Burden of proof.*—The burden of proving that any transaction of a dealer is not liable to tax under this Act shall lie on such dealer.

#### CHAPTER IV

#### Registration and Permit

13. *Registration of dealers.*—(1) Every dealer whose total turnover in any year is not less than seven thousand five hundred rupees shall, and any other dealer may, get himself registered under this Act.

(2) Notwithstanding anything contained in sub-section (1), every dealer carrying on business in all or any of the goods mentioned in the First and the Second Schedules whose total turnover in respect of those goods in any year is not less than two thousand five hundred rupees shall get himself registered.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2),—

- (i) every casual trader,
- (ii) every dealer registered under sub-section (3) of section 7 of the Central Sales tax Act, 1956 (Central Act 74 of 1956);
- (iii) every dealer residing outside the State, but carrying on business in the State;
- (iv) every agent of a non-resident dealer; and
- (v) every commission agent, broker, *del credere* agent, auctioneer or any other mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal,

shall get himself registered under this Act, irrespective of the quantum of his total turnover in such goods.

(4) Nothing contained in this section shall apply to any State Government, the Central Government or any local authority.

14. *Procedure for registration.*—(1) An application for registration shall be made to such authority, in such manner and within such period as may be prescribed and shall be accompanied by a fee of ten rupees.

(2) If the prescribed authority after making such enquiries as it may consider necessary is satisfied that the application is in order and

that the particulars furnished therein are correct, it shall register the applicant and issue to him a certificate in the prescribed form.

(3) Where a dealer has more than one place of business, the registration certificate shall cover all such places of business. The assessing authority shall issue copies of the registration certificate to the dealer for exhibition at each of his places of business and the dealer shall pay a fee of five rupees for each copy.

(4) The prescribed authority shall have power for good and sufficient reasons to demand from any dealer, who has been registered or has applied for renewal of registration, security for the proper payment of tax by him for an amount not exceeding one-half of the tax payable on the turnover of the dealer for the year as estimated by the prescribed authority or three months' compounded rate in the case of applicants who have opted to pay tax under section 7:

Provided that the assessing authority shall have power to demand at any time additional security if such authority has reason to believe that the turnover estimated under this sub-section was too low.

(5) A certificate issued under sub-section (2) shall be valid for a year and shall be renewed from year to year on payment of the fee specified in sub-section (1).

(6) A dealer registered under sub-section (1) or sub-section (2) of section 13 shall be entitled to have his registration cancelled if he is able to prove to the satisfaction of the prescribed authority that his turnover in each of the two consecutive years immediately preceding the application was less than the limits mentioned in the respective sub-sections.

(7) The prescribed authority shall have power, for good and sufficient reasons, to cancel, modify or amend any registration certificate issued by it.

(8) No application for registration and no renewal under this section shall be refused and no order under sub-section (4) or sub-section (7) shall be made, unless the dealer concerned has been given an opportunity of being heard.

(9) When a dealer has ceased to do business in any year, and gives notice of that fact to the prescribed authority, he shall not be liable to pay any registration fee from the commencement of the following year unless he resumes business.

(10) The dealer shall exhibit the certificate of registration granted under sub-section (2) at the place of business mentioned in the certificate. Where the dealer has more than one place of business, he shall exhibit the certificate of registration at the principal place of business mentioned in the certificate and a copy of such certificate granted under sub-section (3) at every other place of business within the State mentioned in the certificate.

15. *Issue of permits.*—(1) Every registered dealer who transacts business at places other than his registered place or places of business

or employs a travelling salesman or representative to transact business as aforesaid, shall obtain a permit issued under this Act authorising himself or, as the case may be, the travelling salesman or representative so to do.

(2) The entire turnover of business carried on under the permit shall be included and accounted for by the registered dealer in his accounts and returns and shall be dealt with as if it were the turnover of business done by the registered dealer himself at the registered place of business.

(3) Every permit holder shall carry the permit with him and shall produce it on demand by any officer of the Sales Tax Department empowered by the Government in this behalf. He shall maintain and produce on demand to any such officer a true and correct account of all the transactions carried on under the permit and also a stock-book showing the quantities of goods held by him, the quantities disposed of from day to day by sale or otherwise and the balance on hand at the end of each day.

(4) An application for the permit referred to in sub-section (1) shall be made to such authority, in such manner and within such period as may be prescribed and shall be accompanied by such fee not exceeding ten rupees as may be prescribed.

*Explanation.*—A separate application with a separate fee shall be necessary for the registered dealer and for each travelling salesman or representative employed by him.

(5) If the prescribed authority is satisfied that the application is in order, and the particulars furnished therein are correct, it shall issue the permit in the prescribed form.

(6) A permit issued under sub-section (5) shall be valid for a year and shall be renewed from year to year on receipt of an application from the registered dealer accompanied by such fee not exceeding ten rupees as may be prescribed.

(7) The prescribed authority shall cancel a permit—

- (a) on requisition made in writing by the registered dealer, or
- (b) on the cancellation of the certificate of registration.

(8) The prescribed authority may cancel a permit if the permit holder has contravened any of the terms or conditions of the permit or any of the provisions of this Act or the rules made there under.

(9) No permit shall be cancelled under sub-section (8) unless the person affected has been given a reasonable opportunity of being heard.

## CHAPTER V

### Assessment, Collection and Penalty

16. *Assessment of tax.*—(1) The tax under this Act shall be assessed, levied and collected in such manner as may be prescribed.

(2) In the case of a dealer with more than one place of business, the aggregate turnover of all such places of business shall be taken as the turnover of the business for the purposes of this Act.

(3) Notwithstanding anything contained in sub-section (2) or any of the other provisions of this Act, the Board of Revenue may, with the consent of the dealer, treat each of such places of business as a separate unit for the purposes of levy, assessment and collection of tax and thereupon all the provisions of this Act regarding registration, filing of returns, assessment and collection of tax shall apply as if each of such places of business is a separate unit.

(4) Where any order is passed by the Board of Revenue under sub-section (3), the turnover of each of such places of business shall be liable to tax irrespective of such turnover being below the minimum turnover mentioned in section 5:

Provided that the total turnover in respect of all such places of business together is not less than the minimum turnover mentioned in section 5.

17. *Procedure to be followed by the assessing authority.*— (1) Every dealer who is liable to pay tax under this Act shall submit such return or returns relating to his turnover in such manner and within such period as may be prescribed.

(2) If the assessing authority is satisfied that any return submitted under sub-section (1) is correct and complete, it shall assess the dealer on the basis thereof.

(3) If no return is submitted by the dealer under sub-section (1) within the prescribed period, or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority shall, after making such enquiry as it may consider necessary and after taking into account all relevant materials gathered by it, assess the dealer to the best of its judgment:

Provided that before taking action under this sub-section the dealer shall be given a reasonable opportunity of being heard and, where a return has been submitted, to prove the correctness or completeness of such return.

18. *Provisional assessment.*—(1) The tax for each year payable under any of the provisions of this Act may be assessed, levied and collected in advance during the year in monthly or other prescribed instalments, and for that purpose a dealer may be required to furnish within the prescribed period either an advance estimate of his turnover for the year, or such periodical returns of the actual turnover as may be prescribed. The assessing authority may determine the amount of tax payable in respect of any period and on such assessment the dealer shall pay the sum demanded within such time as may be fixed by such authority.

(2) If no return is submitted by the dealer under sub-section (1) within the prescribed period, or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority may determine the amount of tax payable by the dealer in accordance with the provisions of sub-section (3) of section 17.

(3) If the assessing authority has reason to believe that the provisional assessment made by it for any period was based on too low a turnover or was made at too low a rate or was based on too high a turnover or was made at too high a rate, it may enhance or reduce, as the case may be, such provisional assessment :

Provided that before making an enhancement of the provisional assessment as aforesaid, the assessing authority shall, except where such enhancement is based on the turnover finally determined for the preceding year, give a reasonable opportunity to the dealer to show cause against such enhancement and make such enquiry as it may consider necessary.

(4) The assessment, levy and collection of tax under this section shall be subject to such adjustment as may be prescribed on the completion of final assessment in the manner prescribed.

19. *Assessment of escaped turnover.*—(1) Where for any reason the whole or any part of the turnover of business of a dealer has escaped assessment to tax in any year or has been under-assessed or has been assessed at a rate lower than the rate at which it is assessable, or any deduction has been wrongly made therefrom, the assessing authority may, at any time within four years from the expiry of the year to which the tax relates, proceed to determine to the best of its judgment the turnover which has escaped assessment to tax or has been under-assessed or has been assessed at a rate lower than the rate at which it is assessable or the deduction that has been wrongly made and assess the tax payable on such turnover after issuing a notice on the dealer and after making such enquiry as it may consider necessary :

Provided that before making an assessment under this sub-section the dealer shall be given a reasonable opportunity of being heard.

(2) In making an assessment under sub-section (1), the assessing authority may, if it is satisfied that the escape from assessment is due to wilful non-disclosure of assessable turnover by the dealer, direct the dealer to pay, in addition to the tax assessed under sub-section (1), a penalty not exceeding one and a half times the tax so assessed :

Provided that no penalty under this sub-section shall be imposed unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

(3) The powers under sub-section (1) may be exercised by the assessing authority even though the original order of assessment, if any, passed in the matter, has been the subject matter of an appeal or revision.

(4) In computing the period of limitation for the purposes of this section, the time during which the proceedings for assessment remained stayed under the orders of a civil court or other competent authority shall be excluded.

20. *Assessment of legal representatives.*—Where a dealer dies, his executor, administrator, or other legal representative shall be deemed to be the dealer for the purposes of this Act, and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer,

provided that, in respect of any tax, fee or other amount assessed as payable by any such dealer or levied on him or any tax, fee or other amount which would have been payable by him under this Act if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

21. *Liability of firms.*—(1) Where any firm is liable to pay any tax, fee or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

(2) Where a partner of a firm liable to pay any tax, fee or other amount under this Act retires, he shall, notwithstanding any contract to the contrary, be liable to pay the tax, fee or other amount remaining unpaid at the time of his retirement and any tax, fee or other amount due up to the date of retirement, though unassessed.

22. *Collection of tax by dealers.*—(1) No person who is not a registered dealer shall collect any amount by way of tax under this Act; nor shall a registered dealer make any such collection except in accordance with such conditions and restrictions, if any, as may be prescribed :

Provided that nothing contained in this sub-section shall apply to the Central Government, a State Government or a local authority.

(2) If any dealer or person who is not liable to tax under this Act collects any amount purporting to be by way of tax, such dealer or person shall, unless it is established to the satisfaction of the assessing authority that the amount so collected has been refunded to the person who had originally paid the amount, pay over to the Government within such time and in such manner as may be prescribed all amounts so collected.

(3) If any dealer or person collects tax on transactions not liable to tax under this Act or in excess of the tax leviable under this Act, such dealer or person shall, unless it is established to the satisfaction of the assessing authority that the tax so collected has been refunded to the person who had originally paid the tax, pay over to the Government, in addition to the tax payable, the amount so collected, within such time and in such manner as may be prescribed.

(4) A local authority which collects any amount by way of tax under this Act shall pay over to the Government the amount so collected, and if any such amount is not so paid the Collector of the district concerned shall, on requisition by the assessing authority, make an order directing the person having the custody of the funds of the local authority to pay it in priority to any other charge against such fund except charges for the service of authorised loans; and such person shall be bound to comply with such order.

23. *Payment and recovery of tax.*—(1) The tax assessed or any other amount demanded under this Act shall be paid in such manner and in such instalments, if any, and within such time, as may be specified in the notice of demand, not being less than twenty-one days from the date of service of the notice. If default is made in paying according to the notice of demand, the whole of the amount outstanding on the

date of the default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax or other amount under this Act :

Provided that the time-limit of twenty-one days for a notice under this sub-section shall not apply to casual traders.

(2) Any tax assessed or any other amount due under this Act from a dealer or other person may, without prejudice to any other mode of recovery, be recovered—

(a) as if it were an arrear of land revenue ;

(b) on application to any Magistrate, by such Magistrate as if it were a fine imposed by him :

Provided that no proceedings for such recovery shall be taken or continued as long as such dealer or other person has, in regard to the payment of such tax or other amount, as the case may be, complied with an order by any of the authorities to whom he has appealed or applied for revision, under the provisions of this Act.

(3) If the tax assessed or any other amount due under this Act or any instalment thereof is not paid by any dealer or other person within the time specified therefor in the notice of demand or in the order permitting payment in instalments or within the time allowed for its payment by the appellate or revising authority, the dealer or other person shall pay, by way of penalty, in the manner prescribed, in addition to the amount due a sum equal to—

(a) half per cent of such amount for each month or part thereof for the first three months after the date specified for its payment ,

(b) one per cent of such amount for each month or part thereof subsequent to the first three months aforesaid.

24. *Recovery of penalty.*—Penalty payable under this Act shall be deemed to be tax under this Act for the purpose of collection and recovery, and shall be recoverable without prejudice to the institution of any proceeding for an offence under this Act.

25. *Further mode of recovery.*—(1) The assessing authority may, at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the assessing authority), require any officer of the Government or any local authority, company, firm, society or association of persons from whom money is due or may become due to the dealer, or any officer of the Government or any local authority, company, firm, society or association of persons who holds or may subsequently hold money for or on account of the dealer, to pay to the assessing authority, either forthwith if the money has become due or is so held, or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax, fee or penalty or the whole of the money when it is equal to or less than the arrears of tax, fee or penalty.

(2) The assessing authority may, at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any officer of the Government or any local authority, company, firm, society or association of persons making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer, and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such officer of the Government or such local authority, company, firm, society or association of persons to the extent of the amount referred to in the receipt.

(4) Any local authority, company, firm, society or association of persons making any payment to the dealer after receipt of the notice referred to in this section shall be liable to the assessing authority to the extent of the payment made or to the extent of the liability of the dealer for the amount due under this Act, whichever is less.

(5) Where any local authority, company, firm, society or association of persons to which a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by it to the dealer, or that it does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such local authority, company, firm, society or association of persons to pay the sum demanded or any part thereof of the assessing authority.

(6) Any amount which a local authority, company, firm, society or association of persons is required to pay to the assessing authority or for which it is liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of the said local authority, company, firm, society or association of persons, as the case may be, and may be recovered as if it were an arrear of land revenue.

*Explanation.*—For the purposes of this section, the amount due to a dealer or money held for or on account of a dealer by any officer of the Government or any local authority, company, firm, society or association of persons shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such officer or such local authority, company, firm, society or association of persons, as the case may be, and as may be lawfully subsisting.

26. *Recovery of tax when business is transferred.*—Where the ownership of the business of a dealer liable to pay tax or other amount is transferred, any tax or other amount payable under this Act in respect of such business and remaining unpaid at the time of the transfer and any tax or other amount due up to the date of the transfer, though unassessed, may, without prejudice to any action that may be taken for its recovery from the transferor, be recovered from the transferee as if he were the dealer liable to pay such tax or other amount:

Provided that the recovery from the transferee of the arrears of tax due for the period prior to the date of the transfer shall be limited to the value of the assets he obtained by transfer.

## CHAPTER VI

### Inspection of business places and accounts and establishment of check posts

27. *Maintenance of true and correct accounts by dealers.*—Every person registered under this Act, every dealer liable to get himself registered under this Act and every other dealer who is required so to do by the prescribed 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, Gujarathi or English, relating to his business, showing such particulars as may be prescribed. Different particulars may be prescribed for different classes of dealers.

28. *Powers to order production of accounts and powers of entry, inspection, etc.*—(1) Any officer empowered by the Government in this behalf may for the purposes of this Act, require any dealer carrying on business in any kind of goods to produce before him the accounts, registers and other documents and to furnish any other information relating to his business, and such dealer shall produce his accounts, registers and other documents and shall furnish any such information in accordance with such requisition.

(2) All accounts, registers and other documents maintained by a dealer the goods in his possession and his offices, shops, godowns, vessels or vehicles shall be open to inspection at all reasonable times by such officers as may be authorised by the Government in this behalf.

(3) (a) If any officer not below the rank of an assessing authority has reason to suspect that any dealer is attempting to evade payment of any tax or fee due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers and documents of the dealer as he may consider necessary and shall grant a receipt for the same. The officer who seizes such accounts, registers or documents shall return them within thirty days from the date of seizure unless they are required for a prosecution.

(b) (i) Any such officer shall have power to enter and search, for purposes referred to in sub-section (2) or clause (a), any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place where such officer has reason to believe that the dealer keeps, or is for the time being keeping, any accounts, registers or documents of his business:

Provided that no residential accommodation (not being a shop-cum-residence) shall be entered into and searched by such officer except on the authority of a search-warrant issued by a Magistrate having jurisdiction over that area, and all searches under this sub-section shall, so far as may be, be made in accordance with the provisions of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), subject to the rules, if any, made in this behalf.

(ii) The power conferred by sub-clause (i) shall include the power to break open any box or receptacle in which any accounts, registers, or other documents of the dealer

may be kept or any place where the accounts are reasonably suspected to be kept or to break open the door of any premises where any such accounts, registers or documents may be kept or reasonably suspected to be kept :

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises if he is present therein fails or refuses to open the door on being called upon to do so.

(iii) The power conferred by sub-clause (i) shall also include the power to seal any box or receptacle, godown or building where accounts are suspected to be kept or goods are stored, if the owner or any other person in occupation leaves the premises or refuses to open any box or receptacle, godown or building or is not available, and then to break open such box, receptacle, godown or building on the authority of a warrant issued by a Magistrate having jurisdiction over that area.

(4) (a) Any officer authorised in this behalf by the Government shall have power to seize any goods the sale or purchase of which is liable to tax and which are found in any office, shop, godown, vehicle, vessel or in any other place of business or in any building of the dealer but not accounted for by the dealer in his accounts, registers and other documents maintained in the course of his business or in any other satisfactory manner :

Provided that a list of all things seized under this sub-section shall be prepared by such officer and signed by two respectable witnesses :

Provided further that no residential accommodation shall be entered into by such officer except on the authority of a search warrant issued by a Magistrate having jurisdiction over the area.

(b) Any goods seized under clause (a) shall be released on payment of a penalty not exceeding double the amount of the tax on the sale or purchase of such goods as may be fixed by such officer :

Provided that the officer may release the goods on cash security being furnished by the person concerned to the extent of the penalty leviable if, in the opinion of the officer, further time is required to arrive at a correct finding as to whether a penalty is to be imposed or not and that the security so furnished shall be adjusted towards the penalty in case if it is payable or returned to the party, if otherwise.

(c) The goods so seized under clause (a) and not released under clause (b) may, on the report of such officer, be confiscated by the Inspecting Assistant Commissioner, provided that before taking action for the confiscation of goods under this sub-section, the officer shall by notice give the person affected an opportunity of being heard and make an enquiry in the prescribed manner.

(e) A Magistrate of the first class may, on application from an officer empowered by sub-section (3) to search any place within the

jurisdiction of such Magistrate or to seize goods under sub-section (4) in any place within his jurisdiction and on being satisfied that any residential accommodation has to be entered into and searched or entered into, as the case may be, for the purpose of the aforesaid sub-section (3) or sub-section (4), issue a search warrant authorising such officer to enter and search or to enter such residential accommodation or on being satisfied that any box, receptacle, godown or building has to be broken open under sub-clause (iii) of clause (b) of sub-section (3), issue a warrant authorising the officer to break open such box, receptacle, godown or building.

(6) It shall be open to the Government to authorise different classes of officers for the purpose of taking action under sub-section (1), sub-section (2) and clause (a) of sub-section (4).

29. *Establishment of check posts and inspection of goods in transit.*—

(1) If the Government consider that with a view to prevent or check evasion of tax under this Act in any place or places in the State it is necessary so to do, they may, by notification in the Gazette, direct the setting up of check posts at such place or places, and define the boundaries of such check posts and notify the area of the check posts included within such boundaries, hereinafter referred to as the notified area, and demarcate such boundaries by means of barriers or otherwise for the purpose of regulating the passage of goods across the notified area.

(2) No person shall transport within the State across or beyond the notified area any consignment of goods exceeding such quantity or value as may be prescribed by any vehicle or vessel, unless he is in possession of—

(a) either a bill of sale or delivery note or way-bill or certificate of ownership containing such particulars as may be prescribed, and

(b) a declaration in such form and containing such particulars as may be prescribed, when the vehicle or vessel enters or leaves the State limits.

*Explanation.*—The term “goods” referred to in this sub-section shall not include luggage of persons who cross the notified area.

(3) At any place within the notified area or at any other place when so required by any officer empowered by the Government in this behalf, the driver or any other person in charge of any vehicle or vessel shall stop the vehicle or vessel and keep the vehicle or vessel, as the case may be, stationary as long as may be required by the officer in charge of the notified area or the officer empowered as aforesaid, and allow and enable such officer to inspect the goods under transport and to examine the bill of sale or delivery note or way-bill or certificate of ownership relating to the goods, which are in the possession of such driver or person in charge of the goods who shall, if so required, give his name and address, the name and address of the owner of the vehicle or vessel and the name and address of the owner of the goods and in the case of a vehicle or vessel entering or leaving the State limits the declaration also.

(4) Where the goods transported exceed the quantity or value prescribed under sub-section (2), the officer in charge of the notified area or the officer empowered in the preceding sub section shall have power to detain or seize and confiscate the goods—

(a) which are being transported by a vehicle or vessel and not covered by a bill of sale or delivery note or way-bill or certificate of ownership and where the vehicle or vessel enters or leaves the State limits, the declaration referred to in clause (b) of sub-section (2) also, or

(b) where the declaration is false or is reasonably suspected to be false in respect of the particulars furnished therein:

Provided that before taking action for the confiscation of goods under this section, the officer shall give the person in charge of the goods and the owner, if ascertainable, an opportunity of being heard and make an enquiry in the manner prescribed.

(5) Whenever confiscation is authorised by this section, the officer adjudging it shall give the owner or the person in charge of the goods an option to pay, in lieu of confiscation, a penalty not exceeding double the amount of tax calculated at the rates applicable to the goods liable to confiscation :

Provided that the officer may release the goods on cash security being furnished by the person concerned to the extent of the penalty leviable if, in the opinion of the officer, further time is required to arrive at a correct finding as to whether a penalty is to be imposed or not and that the security so furnished shall be adjusted towards the penalty in case it is payable or returned to the party, if otherwise.

(6) Nothing contained in sub-section (4) or sub-section (5) shall apply in the case of goods transported which are exempted from tax under any of the provisions of this Act without any condition or restriction.

30. *Regulation of transport of notified goods.*—(1) No person shall transport from or to any railway station or steamer station or any other place of similar nature notified in this behalf by the Government any consignment of such goods as may be notified by the Government in the Gazette exceeding such quantity or value as may be prescribed, except in accordance with such conditions as may be prescribed. Such conditions shall be prescribed with a view to ensure that there is no evasion of the tax imposed by this Act.

(2) Any officer authorised by the Government in this behalf shall have power, subject to such restrictions as may be prescribed, —

(a) to intercept and search any vehicle or vessel for the purpose of verifying whether any goods are being transported in contravention of sub-section (1) ;

(b) to seize and confiscate any goods which he has reason to believe are being transported in contravention of sub-section (1) :

Provided that before taking action for the confiscation of goods under this section the officer shall give the person in charge of the goods and the owner, if ascertainable, an opportunity of being heard and make an enquiry in the manner prescribed.

(3) Whenever confiscation is authorised by this section, the officer adjudging it shall give the owner or the person in charge of the goods an option to pay, in lieu of confiscation, a penalty not exceeding double the amount of tax calculated at the rates applicable to the goods liable to confiscation :

Provided that the officer may release the goods on cash security being furnished by the person concerned to the extent of the penalty leviable if, in the opinion of the officer, further time is required to arrive at a correct finding as to whether a penalty is to be imposed or not and that the security so furnished shall be adjusted towards the penalty in case it is payable or returned to the party, if otherwise.

(4) Nothing contained in sub-section (2) or sub-section (3) shall apply in the case of goods transported which are exempted from tax under any of the provisions of this Act without any condition or restriction.

31. *Possession and submission of certain records by owners, etc., of vehicles and vessels.*—The owner or other person in charge of a vehicle or vessel shall, while transporting any consignment of goods exceeding such quantity or value as may be prescribed under sub-section (2) of section 29, carry with him—

(i) a bill of sale, delivery note, way-bill or a certificate of ownership, and

(ii) such other documents as may be prescribed, relating to the goods under transport and containing such particulars as may be prescribed, and shall submit to the prescribed authority, having jurisdiction over the area in which the goods are delivered, the documents aforesaid or copies thereof within such time as may be prescribed.

32. *Forwarding agency, etc., to submit returns.*—Every clearing or forwarding house or agency, transporting agency, shipping agency, shipping out-agency or steamer agency in the State shall submit to the assessing authority of the area such returns as may be prescribed of all goods cleared, forwarded, transported, or shipped by it. The assessing authority concerned shall have the power to call for and examine the books of account or other documents in the possession of such agency with a view to verify the correctness of the returns submitted, and the agency shall be bound to furnish the books of account or other documents when so called for.

33. *Banks to submit returns.*—Every bank, including any branch of a bank or any banking institution in the State, shall submit every month to the assessing authority of the area a return in the prescribed form of all bills relating to goods discounted, cleared or negotiated by or through it during the preceding month, in such manner as may be prescribed.

## CHAPTER VII

### Appeals, Revisions and Refunds

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, sub-section (2)

or sub-section (3) of section 17, sub-section (1), sub-section (2) or sub-section (3) of section 18, sub-section (1) or sub-section (2) of section 19, section 26, section 29, section 30 or sub-section (2) of section 47 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 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 further that in the case of an order under sub-section (2) or sub-section (3) of section 17, sub-section (1), sub-section (2) or sub-section (3) of section 18 or sub-section (1) or sub-section (2) of section 19, 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.

(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,—

(i) confirm, reduce, enhance or annul the assessment or the penalty or both;

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

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

(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 overpaid 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 (1), 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.

35. *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 the Inspecting Assistant Commissioner or any officer or authority of rank below that of an Inspecting Assistant Commissioner 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 time for appeal against the order has not expired;

(b) the order has been made the subject 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.

(3) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

36. *Powers 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.

(2) An application for revision shall be in the prescribed form and shall be verified in the prescribed manner.

(3) On admitting an application for revision, the Deputy Commissioner may call for and examine the record of the order or proceeding against which the application has been preferred and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act pass such order thereon as he thinks fit.

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

Provided that the Deputy Commissioner may, in his discretion, give such directions as he thinks fit in regard to the payment of such tax, fee or other amount, if the applicant furnishes sufficient security to his satisfaction in such form and in such manner as may be prescribed.

(5) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

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 the Deputy Commissioner, Inspecting Assistant Commissioner or any officer or authority of rank below that of an Inspecting Assistant Commissioner 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.

(3) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

38. *Powers of revision of the Board of Revenue on application.*—(1) Any person objecting to an order passed by the Deputy Commissioner under sub-section (1) of section 35 or sub-section (3) of section 36 may, within a period of thirty days from the date on which a copy of the order was served on him in the manner prescribed, file an application for revision of such order to the Board of Revenue :

Provided that the Board of Revenue may admit an application presented after the expiry of the said period, if it is satisfied that the applicant had sufficient cause for not presenting the application within the said period.

(2) Such application for revision shall be in the prescribed form and shall be verified in the prescribed manner.

(3) On admitting an application for revision, the Board of Revenue may call for and examine the record of the order against which the application has been preferred and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act pass such order thereon as it thinks fit.

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

Provided that the Board of Revenue may, in its discretion, give such directions as it thinks fit in regard to the payment of such tax, fee or other amount, if the applicant furnishes sufficient security to its satisfaction in such manner as may be prescribed.

(5) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

39. *Appeal to the Appellate Tribunal.*—(1) 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 and any person objecting to an order passed by the Inspecting Assistant Commissioner under clause (c) of sub-section (4) of section 28 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 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 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).

(3) The appeal or the memorandum of cross-objections shall be in the prescribed form and shall be verified in the prescribed manner and, in the case of an appeal preferred by any person other than an officer empowered by the Government under sub-section (1), it shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(4) In disposing of an appeal, the Appellate Tribunal may, after giving the parties a reasonable opportunity of being heard either in person or by a representative,—

(a) in the case of an order of assessment or penalty,—

(i) confirm, reduce, enhance or annul the assessment or penalty or both ,

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

(iii) pass such other orders as it may think fit ; or

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

Provided that, if the appeal involves a question of law on which the Appellate Tribunal has previously given its decision in another appeal and either a revision petition in the High Court against such decision or an appeal in the Supreme Court against the order of the High Court thereon is pending, the Appellate Tribunal may defer the hearing of the appeal before it, till such revision petition in the High Court or the appeal in the Supreme Court is disposed of.

(5) Where as a result of the appeal any change becomes necessary in the order appealed against, the Appellate Tribunal may authorise the assessing authority to amend such order accordingly and on such amendment being made any amount overpaid 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.

(6) Notwithstanding that an appeal has been preferred under sub-section (1), the tax shall be paid in accordance with the order of assessment 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 the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.

(7) (a) The appellant or the respondent may apply for review of any order passed by the Appellate Tribunal under sub-section (4) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made :

Provided that no such application shall be preferred more than once in respect of the same order.

(b) The application for review shall be preferred in the prescribed manner and within one year from the date on which a copy of the order to which the application relates was served on the applicant in the manner prescribed, and, where the application is preferred by any person other than an officer empowered by the Government under sub-section (1), it shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(8) Every order passed by the Appellate Tribunal under sub-section (4) or sub-section (7) 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 if he is not such authority and the Board of Revenue.

40. *Appeal to the High Court.*—(1) Any person objecting to an order affecting him passed by the Board of Revenue under section 37 may, within a period of ninety days from the date on which a copy of the order was served on him in the manner prescribed, appeal against such order to the High Court :

Provided that the High Court may admit an appeal preferred after the period of ninety days aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

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

(3) In disposing of an appeal, the High Court may, after giving the parties a reasonable opportunity of being heard either in person or by a representative,—

(a) in the case of an order of assessment or penalty,—

(i) confirm, reduce, enhance or annul the assessment or penalty or both ;

(ii) set aside the assessment and direct that a fresh assessment may be made after such further enquiry as may be directed ; or

(iii) pass such other orders as it may think fit ; or

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

(4) Where as a result of the appeal any change becomes necessary in the order appealed against, the High Court may authorise the Board of Revenue to amend such order accordingly and, on such amendment being made, any amount overpaid 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) Every order passed in appeal under this section shall be final.

(6) Notwithstanding that an appeal has been preferred under sub-section (1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred :

Provided that the High Court may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.

(7) (a) The High Court may, on the application of the appellant or the Board of Revenue, review any order passed by it under sub-section (3) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within the knowledge of the appellant or the Board of Revenue or could not be produced by him or it when the order was made.

(b) The application for review shall be preferred in the prescribed manner and within one year from the date on which a copy of the order to which the application relates was served on the applicant in the manner prescribed and shall, where it is preferred by any person other than the Board of Revenue, be accompanied by a fee of one hundred rupees.

(8) The cost of an appeal under sub-section (1) or of a review under sub-section (7) shall be in the discretion of the High Court.

41. *Revision by the High Court.*—(1) Any officer empowered by the Government in this behalf or any other person who objects to an order passed by the Appellate Tribunal under sub-section (4) or sub-section (7) of section 39 may, within ninety days from the date on which a copy of such order is served on him in the manner prescribed, prefer a petition to the High Court on the ground that the Appellate Tribunal has either decided erroneously or failed to decide any question of law :

Provided that the High Court may admit a petition preferred after the period of ninety days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within the said period.

(2) The petition shall be in the prescribed form and shall be verified in the prescribed manner and, where it is preferred by a person other than an officer empowered by the Government under sub-section (1), it shall be accompanied by a fee of one hundred rupees.

(3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily :

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard.

(4) (a) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal with the opinion of the High Court on the question of law raised, or pass such order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter under clause (a) with its opinion on the question of law raised, the Appellate Tribunal shall amend the order passed by it in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers it necessary so to do, remit the petition to the Appellate Tribunal, and direct it to return the petition with its finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the order against which the revision has been preferred :

Provided that the High Court may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the petition, if the petitioner furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.

(7) (a) The High Court may, on the application of any party to a revision under this section, review any order passed by it on the basis of the discovery of new and important facts which after the exercise of due diligence were not within the knowledge of the applicant or could not be produced by him when the order was made.

(b) The application for review shall be preferred in the prescribed manner and within one year from the date on which a copy of the order to which the application relates was served on the applicant in the manner prescribed and, where it is preferred by a person other than an officer empowered by the Government under sub-section (1), it shall be accompanied by a fee of one hundred rupees.

(8) If, as a result of the revision or review, any change becomes necessary in any assessment, the High Court may direct the assessing

authority to amend the assessment accordingly, and, on such amendment being made, any amount overpaid by any person shall be refunded to him, or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(9) The cost of a revision under sub-section (1) or of a review under sub-section (7) shall be in the discretion of the High Court.

42. *Appeals, petitions and applications to the High Court to be heard by a Bench of not less than two Judges.*—Every appeal preferred to the High Court under section 40, every petition under section 41 and every application under section 40 or section 41 shall be heard by a Bench of not less than two Judges, and in respect of such appeal, petition or application, the provisions of section 98 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908), shall, so far as may be, apply.

43. *Power to rectify any error apparent on the face of the record.*—(1) An assessing authority or an appellate or revising authority (including the Appellate Tribunal) may, on application or otherwise, at any time within three years from the date of any order passed by it, rectify any error apparent on the face of the record :

Provided that no such rectification which has the effect of enhancing an assessment or any penalty shall be made unless such authority has given notice to the person affected and has allowed him a reasonable opportunity of being heard.

(2) Where such rectification has the effect of reducing an assessment or penalty, the assessing authority shall make any refund to the person entitled thereto.

(3) Where any such rectification has the effect of enhancing an assessment or penalty, the assessing authority shall give the dealer or other person a revised notice of assessment or penalty, and thereupon the provisions of this Act and the rules made thereunder shall apply as if such notice had been given in the first instance.

*Explanation.*—The liability to pay the tax or other amount will arise only from the date specified in the revised notice.

44. *Refunds.*—(1) When an assessing authority finds, at the time of final assessment, that the dealer has paid tax in excess of what is due from him, it shall refund the excess to the dealer.

(2) When the assessing authority receives an order from any appellate or revisional authority to make refund of tax or penalty paid by a dealer, it shall effect the refund.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the assessing authority shall have power to adjust the amount due to be refunded under sub-section (1) or sub-section (2) towards the recovery of any amount due, on the date of adjustment, from the dealer.

(4) In case refund under sub-section (1) or sub-section (2) or adjustment under sub-section (3) is not made within ninety days of the date of final assessment or, as the case may be, within ninety days of the date of receipt of the order in appeal or revision or the date of expiry of the time for preferring appeal or revision, the dealer shall be entitled

to claim interest at the rate of six per cent per annum on the amount due to him from the date of expiry of the said period up to the date of payment or adjustment.

45. *Refund or adjustment in certain cases.*—Where a dealer proves to the satisfaction of the assessing authority—

(i) that he has been assessed to tax under the General Sales Tax Act, 1125 ( Act XI of 1125 ) or under this Act, as the case may be, in respect of the turnover of the goods in his possession on the last day of the financial year ending on the 31st day of March, 1960, or on the last day of any subsequent financial year, which is taxable only at the point of last purchase in the State ;

(ii) that he has paid the tax so assessed ; and

(iii) that—

(a) he has sold such goods to a dealer in the State who is liable to tax under section 3 of the General Sales Tax Act, 1125 or under section 5 of this Act, as the case may be, in respect of such goods, before the expiry of the subsequent financial year, or

(b) in the case of coir or aloe yarn such goods were used by him in the manufacture within the State of coir products or aloe yarn products, as the case may be, in the subsequent year,

he shall be entitled to the refund of the tax paid by him or to its adjustment in such manner and subject to such conditions as may be prescribed :

Provided that the provisions of this section shall apply to the refund of the tax paid on the turnover relating to the purchase of aloe yarn used in the manufacture of aloe yarn products under sub-clause (b) of clause (iii) only where the purchase took place in the year 1961-62 or any subsequent year.

## CHAPTER VIII

### Offences and penalties

46. *Penalty for submitting untrue return, etc.*—(1) Any person who—

(a) knowingly submits an untrue return or fails to submit a return as required by the provisions of this Act or the rules made thereunder, or

(b) collects any amount by way of tax in contravention of sub-section (1) of section 22, or

(c) fails to keep true and complete accounts, or

(d) dishonestly objects to or fails to comply with the terms of a notice issued to him under sub-section (1) of section 25, or

(e) being a person obliged to register himself as a dealer under this Act does not get himself registered, or

(f) wilfully acts in contravention of any of the provisions of this Act or the rules made thereunder, for the contravention of which no express provision for punishment is made by this Act,

shall, on conviction by a Magistrate not below the rank of a Magistrate of the First Class, be liable to fine which may extend to one thousand rupees.

(2) Any person who—

(a) prevents or obstructs inspection, entry, search or seizure by an officer empowered under this Act, or

(b) prevents or obstructs inspection of any vehicle or vessel or goods transported otherwise or seizure of goods by an officer in charge of a check post or barrier or any officer empowered under this Act, or

(c) fraudulently evades the payment of tax, fee or other amount due from him under this Act, or

(d) after purchasing any goods in respect of which he has made a declaration under the proviso to sub-section (3) of section 5 fails without reasonable excuse to make use of the goods for the declared purpose, or

(e) carries on business as a dealer without furnishing the security demanded under sub-section (4) of section 14,

shall, on conviction by a Magistrate not below the rank of a Magistrate of the First Class, be liable to simple imprisonment which may extend to six months or to fine not less than the tax or other amounts due but not exceeding two thousand rupees, or to both.

47. *Composition of offences.*—The assessing authority or other officer or authority authorised 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, by way of composition of such offence.—

(a) where the offence consists of the evasion of any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees or double the amount of the tax recoverable whichever is greater, and

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

(2) If any person purchasing goods is guilty of an offence under clause (d) of sub-section (2) of section 46, the assessing authority may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times the tax payable on the turnover relating to the sale of such goods at a rate which is equal to the rate prescribed in the First Schedule less one per cent:

Provided that no prosecution for an offence under section 46 shall be instituted in respect of the same facts on which a penalty has been imposed under this sub-section.

48. *Offences by companies.*—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty

of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

## CHAPTER IX

### Miscellaneous

49. *Courts not to set aside or modify assessments except as provided in this Act.*—No suit or other proceeding shall, except as expressly provided in this Act, be instituted in any court to set aside or modify any assessment made under this Act.

50. *Assessment, etc., not to be questioned in prosecution.*—(1) Any order of assessment made under this Act shall be conclusive evidence in any prosecution or other proceeding.

(2) The validity of the assessment of any tax, or of the levy of any fee or other amount, made under this Act, or the liability of any person to pay any tax, fee or other amount so assessed or levied, shall not be questioned in any criminal court in any prosecution or other proceeding, whether under this Act or otherwise.

51. *Bar of certain proceedings.*—(1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act, without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

52. *Limitation for certain suits and prosecutions.*—No suit shall be instituted against the Government and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this

Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of:

Provided that, in computing the period of limitation under this section, the time taken for obtaining sanction under sub-section (1) of section 51 shall be excluded.

53. *Power to summon witnesses and cause production of documents.*—An assessing authority or an appellate or revising authority (including the Appellate Tribunal) shall, for the purposes of this Act, have all the powers conferred on a court by the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely,—

(a) summoning and enforcing the attendance of any person and examining him on oath or affirmation; and

(b) compelling the production of any document.

54. *Prohibition of disclosure of particulars produced before sales-tax authorities.*—(1) All particulars contained in any statement made, return furnished or accounts, registers or documents produced under the provisions of this Act or in the evidence given or affidavit or deposition made in the course of any proceeding under this Act or in any record of any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential and shall not be disclosed.

(2) Nothing contained in sub-section (1) shall apply to the disclosure of any such particulars—

(i) to any officer of the Sales Tax Department of the State ;

(ii) for the purpose of prosecution under the Indian Penal Code (Central Act 45 of 1860), or under this Act in respect of any such statement, return, accounts, registers, documents, evidence, affidavit or deposition ;

(iii) to any person enforcing the provisions of this Act where it is necessary to disclose the same to him for the purposes of this Act ;

(iv) occasioned by the lawful employment under this Act of any process for the recovery of any demand ;

(v) to a civil court in any suit to which the Government are party and which relates to any matter arising out of any proceeding under this Act ;

(vi) occasioned by the lawful exercise by a public servant of his powers under the Kerala Stamp Act, 1959 (Act 17 of 1959), or the Indian Stamp Act, 1899 (Central Act 2 of 1899), to impound an insufficiently stamped document ;

(vii) to an officer of the Government of India or the Government of any State or Union Territory in India, if an agreement for disclosure on a reciprocal basis has been entered into between the Government and the Government of India or the Government of the State or Union Territory, as the case may be ;

(viii) to the Director of Statistics or any officer serving under him and authorised by him in this behalf, as may be necessary for conducting statistical survey ;

(ix) to an officer of any Department of the Government after obtaining—

- (a) the permission of the Inspecting Assistant Commissioner of the district, where such particulars are to be furnished by an officer subordinate to the Inspecting Assistant Commissioner ; and
- (b) the permission of the Board of Revenue, where such particulars are to be furnished by an Inspecting Assistant Commissioner or an Appellate Assistant Commissioner or a Deputy Commissioner :

Provided that such particulars shall be furnished under clause (ix) only in exceptional cases and that any officer obtaining such particulars shall keep them as confidential and use them only in the lawful exercise of the powers conferred by or under any enactment.

55. *Persons entitled to appear before authority.*—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 authorised by him in writing in this behalf ; or
- (b) by a legal practitioner ; or
- (c) by a chartered accountant duly authorised by him in writing in this behalf ; or
- (d) by a sales-tax practitioner possessing the prescribed qualifications and duly authorised by him in writing in this behalf.

56. *Sale or purchase deemed to have taken place inside the State in certain cases.*—(1) Notwithstanding anything contained in this Act, any sale or purchase which took place on or before the 6th day of September, 1955, shall be deemed to have taken place inside the State if the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in the State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another State, and be subject to tax under this Act accordingly.

(2) The provisions of this section shall not affect the liability to tax of any sale or purchase under any other provision of this Act.

57. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) all matters expressly required or allowed by this Act to be prescribed ;
- (b) determining the total turnover, taxable turnover or turnover of a dealer for the purposes of this Act ;
- (c) the assessment to tax under this Act of business which is discontinued or the ownership of which has changed ;

(d) the assessment to tax under this Act of business owned by minors and other incapacitated persons or by persons residing outside the State,

(e) the assessment of a business owned by any person whose estate or any portion of whose estate is under the control of the Court of Wards, the Administrator-General, the Official Trustee, or any receiver or manager appointed by or under any order of a court;

(f) the administration of the notified areas and the barriers erected and the check posts set up under this Act and the regulation of the work therein;

(g) the disposal of goods confiscated under this Act and the proceeds thereof;

(h) requiring the submission of returns;

(i) the form in which and the particulars to be contained in any declaration to be given under this Act, the authority from whom, the conditions subject to which and the fees subject to payment of which such form of declaration may be obtained, the manner in which such form shall be kept in custody and records relating thereto maintained, the manner in which any such form may be used and any such declaration may be furnished;

(j) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(k) the term of office, and conditions of service, of the members of the Appellate Tribunal;

(l) the circumstances in which, and the extent to which, fees paid in pursuance of section 39 may be refunded,

(m) the issue of bills or cash memoranda, the class or classes of dealers who should maintain counterfoils for the same and the particulars to be shown in and the manner of maintenance of such counterfoils and the time for which they should be preserved;

(n) the maintenance of purchase-bills or accounts of purchases and sales by dealers and the time for which they should be preserved;

(o) the issue of delivery notes or way-bills in respect of goods delivered or transferred to retail dealers in pursuance of sales effected to them, the form and manner of their issue and the time for which they should be preserved;

(p) the extent of liability of commission agent, broker, *del credere* agent, auctioneer or any other mercantile agent, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal;

(q) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act;

(r) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the Government, necessary for giving effect to the purposes of this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session

for a total period of fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

58. *Power to amend Schedules.*—(1) The Government may, by notification in the Gazette,—

(a) add, omit or amend any entry in the First Schedule or the Second Schedule, but not so as to enhance the rate of tax in any case ;

(b) transpose any entry by deleting it from the First Schedule or the Second Schedule and inserting it in or adding it to the other Schedule.

(2) Where a notification has been issued under sub-section (1), there shall, unless the notification is in meantime rescinded, be introduced in the Legislative Assembly, as soon as may be, but in any case during the next session of the Assembly following the date of the issue of the notification, a Bill on behalf of the Government, to give effect to the addition, omission, amendment or transposition, as the case may be, of the entries in the Schedules specified in the notification, and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder :

Provided that, if the notification under sub-section (1) is issued when the Legislative Assembly is in session, such a Bill shall be introduced in the Assembly during that session :

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly, the notification shall cease to have effect on the expiration of the said period of six months.

(3) All references made in this Act to the First Schedule or the Second Schedule shall be construed as references to that Schedule as for the time being amended in exercise of the powers conferred by this section.

59. *Certain transactions deemed to be first sale.*—Notwithstanding anything contained in this Act, the first sale of such of those goods—

(i) as were not liable to tax only at the point of first sale before the commencement of this Act ; and

(ii) as are liable to tax only at the point of first sale under sub-section (1) or sub-section (2) of section 5 of this Act,

effected within the State after the commencement of this Act shall be deemed to be the first sale for the purposes of this Act, although any sale of such goods has taken place within the State before such commencement.

60. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

(2) All orders made under sub-section (1) shall, as soon as may be after they are made, be laid before the Legislative Assembly for a period of not less than fourteen days, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

61. *Repeal.*—(1) The General Sales Tax Act, 1125 (Act XI of 1125), is hereby repealed.

Provided that such repeal shall not affect the previous operation of the said Act or any right, title, obligation or liability already acquired, accrued or incurred thereunder, and subject thereto, anything done or any action taken, including any appointment, notification, notice, order, rule, form, regulation, certificate, licence or permit, in the exercise of any power conferred by or under the said Act, shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the date on which such thing was done or action was taken, and all arrears of tax and other amounts due at the commencement of this Act may be recovered as if they had accrued under this Act.

(2) Notwithstanding anything contained in sub-section (1), any application, appeal, revision or other proceeding made or preferred to any officer or authority under the said Act and pending at the commencement of this Act, shall, after such commencement, be transferred to and disposed of by the officer or authority who would have had jurisdiction to entertain such application, appeal, revision or other proceeding under this Act if it had been in force on the date on which such application, appeal, revision or other proceeding was made or preferred.

## THE FIRST SCHEDULE

**Goods in respect of which single point tax is leviable under sub-section (1) or sub-section (2) of section 5**

<i>Sl. No.</i>	<i>Description of the goods</i>	<i>Point of levy</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)	(4)
1.	Liquors other than toddy	At the point of first sale in the State by a dealer who is liable to tax under section 5	50
<i>Explanation.</i> —“Liquor” means and includes wine, brandy, Champagne, sherry, rum, gin, whisky, beer, cider, coco-brandy, arrack and all other distilled or spirituous or fermented beverages brought into or produced or manufactured in the State.			
2.	Motor spirit other than petrol	do.	20
3.	Petrol	do.	15
4.	Fire works including coloured matches	do.	7
5.	Rubber products other than cycle tyres and tubes and rubber accessories of cycles	do. do.	7 7
6.	Foamed rubber sheets, cushions, pillows and other articles of foamed rubber	do.	7
7.	All varieties of tractors and bull dozers	do.	7
8.	Motor vehicles including chassis of motor vehicles, motor tyres and tubes and spare parts of motor vehicles including batteries, motor cycles and cycle combinations, motor scooters, motorettes and tyres, tubes and spare parts of motor cycles, motor scooters and motorettes	do.	7
9.	Refrigerators and air conditioning plants and component parts thereof	do.	7
10.	Gramophones and component parts thereof and records	do.	7
11.	Clocks, time-pieces and watches and parts thereof	do.	7
12.	Wireless reception instruments and apparatus, radios and radio gramophones, electrical valves, accumulators, amplifiers and loudspeakers and spare parts and accessories thereof	do.	7

## SCHEDULE—(cont.)

<i>Sl. No.</i>	<i>Description of the goods</i>	<i>Point of levy</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)	(4)
13.	Sound transmitting equipments including telephones and loud-speakers and spare parts thereof	At the point of first sale in the State by a dealer who is liable to tax under section 5	7
14.	Cinematographic equipments including cameras, projectors and sound recording and reproducing equipments, lenses, films and parts and accessories required for use therewith	do.	7
15.	Photographic and other cameras and enlargers, lenses, films and plates, paper and cloth and other parts and accessories required for use therewith	do.	7
16.	Binoculars, telescopes and opera glasses	do.	7
17.	Safes, almirahs and furniture made of iron and steel	do.	7
18.	All arms including rifles, revolvers, pistols and ammunitions for the same	do.	7
19.	Cigarette cases and lighters	do.	7
20.	Dictaphone and similar apparatus for recording sound and spare parts thereof	do.	7
21.	Typewriters, tabulating machines, calculating machines and duplicating machines and parts thereof	do.	7
22.	Vacuum flasks of all kinds	do.	7
23.	Glassware, bottles and phials, funnels, globes, glass parts of lamps, sheets and plates and photo and other frames and mirrors	do.	7
24.	Crockery and cutlery, including knives, forks and spoons, other than stainless steel products, articles made of glass, china porcelain or glazed earthenware adopted for domestic use	do.	7
25.	Cement	do.	7

## SCHEDULE—(cont.)

<i>Sl. No.</i>	<i>Description of the goods</i>	<i>Point of levy</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)	(4)
26.	All electrical goods, instruments, apparatus, appliances and all such articles the use of which cannot be had except with the application of electrical energy, including fans and lighting bulbs, electrical earthenwares and porcelain and all other accessories and component parts either sold as a whole or in parts	At the point of first sale in the State by a dealer who is liable to tax under section 5	7
27.	Paints, colours, lacquers and varnishes	do.	7
28.	Cosmetics including scents and perfumes, powders, snows, scented hair oils, scented sticks, and toilet requisites except soaps	do.	7
29.	Lubricating oils and greases	do.	7
30.	Folding umbrellas	do.	5
31.	Soaps	do.	5
32.	Leather goods of all kinds (other than hand-made foot-wear when sold at a price not exceeding Rs. 5)	do.	5
33.	Plywood and hard board	do.	5
34.	Beedi leaves	do.	5
35.	Water supply and sanitary fittings	do.	5
36.	Manufactured tea	do.	5
37.	Coffee	do.	5
38.	Chicory	do.	5
39.	Bicycles, tandem cycles and cycle combinations and tyres, tubes and accessories and parts thereof	do.	5
40.	Upholstered furniture, sofa sets, dressing tables and furniture of all types made of timber	do.	5
41.	Bricks and tiles (kiln burnt)	do.	5
42.	Paper (other than newsprint), card boards, straw boards and their products	do.	5
43.	Food stuffs sold in sealed containers	do.	5
44.	Vegetable products, that is to say, vegetable oil or fat, which whether by itself or in admixture with any other substances, has by hydrogenation or by any other process been hardened for human consumption	do.	5

## SCHEDULE.—(cont.)

<i>Sl. No.</i>	<i>Description of the goods</i>	<i>Point of levy</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)	(4)
45.	Any pen, pencil, or pen and pencil set sold for ten rupees or more	At the point of first sale in the State by a dealer who is liable to tax under section 5	5
46.	Precious stones, namely, diamonds, emeralds, rubies, real pearls and sapphires, synthetic or artificial precious stones, pearls artificial or cultured	do.	5
47.	Stainless steel products	do.	5
48.	Dried or canned fruits	do.	5
49.	Sewing machines	do.	5
50.	Kerosene	do.	4
51.	Confectionery (tinned, packed or otherwise)	do.	2
52.	Biscuits and cakes (packed, tinned or otherwise)	do.	2
53.	Matches	do.	2
54.	Chemical fertilisers including bone-meal	do.	2
55.	Firewood	do.	1
56.	Bullion and specie	do.	1
57.	Foodgrains	do.	1
58.	Pepper	At the point of last purchase in the State by a dealer who is liable to tax under section 5	5
59.	Dried ginger .. ..	do.	5
60.	Lemongrass oil .. ..	do.	5
61.	Turmeric .. ..	do.	5
62.	Arecanut .. ..	do.	5
63.	Nuxvomica .. ..	do.	5
64.	Laurel oil .. ..	do.	5
65.	Kacholam .. ..	do.	5
66.	Cashewnut with or without shells	do.	4

*Explanation.*—Where a tax has been levied in respect of cashewnut without shell (cashewnut kernel), the tax, if any, levied and collected in respect of the cashewnut with shell from which such kernel is produced shall be refunded.

## SCHEDULE—(cont.)

<i>Sl. No.</i>	<i>Description of the goods</i>	<i>Point of levy</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)	(4)
67.	Coconut fibre, coir yarn and their products	At the point of last purchase in the State by a dealer who is liable to tax under section 5	2
68.	Aloe yarn and its products	do.	2
69.	Prawns and lobsters .. ..	do.	2
70.	Sugar cane .. ..	do.	2
71.	Rubber .. ..	do.	2
72.	Dried fish .. ..	do.	1

## THE SECOND SCHEDULE

**Declared goods in respect of which a single point tax only  
is leviable under sub-section (1) or sub-section (2)  
of section 5**

<i>Sl. No.</i>	<i>Description of the goods</i>	<i>Point of levy</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)	(4)
1.	Cardamom	At the point of first sale in the State by a dealer who is liable to tax under section 5	2
2.	Oil seeds as defined in section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), other than coconut and copra, groundnut and cardamom	do.	2
3.	(i) Coal, including coke in all its forms	do.	2
	(ii) Iron and steel, that is to say—		
	(a) Pig iron and iron scrap ;		
	(b) Iron plates sold in the same form in which they are directly produced by the rolling mill ;		
	(c) Steel scrap, steel-ingots, steel billets, steel bars and rods ;		
	(d) (i) Steel plates, (ii) Steel sheets, (iii) Sheet bars and tin bars, (iv) Rolled steel sections, (v) Tool alloy steel	Sold in the same form in which they are directly produced by the rolling mill	do 2

## SCHEDULE—(cont.)

Sl. No.	Description of the goods	Point of levy	Rate of tax (Per cent)
(1)	(2)	(3)	(4)
(iii)	Jute, that is to say, the fibre extracted from plants belonging to the species <i>corchorus capsularis</i> and <i>corchorus olitorius</i> and the fibre known as <i>mesta</i> or <i>bimli</i> extracted from plants of the species <i>hibiscus cannabinus</i> and <i>hibiscus sabdariffavar altissima</i> , whether baled or otherwise	At the point of first sale in the State by a dealer who is liable to tax under section 5	2
4.	(i) Cotton, that is to say, all kinds of cotton (indigenous or imported) in its unmanufactured state, whether ginned or unginned, baled, pressed or otherwise, but not including cotton waste	do.	1
	(ii) Cotton yarn, other than handspun—yarn, but not including cotton yarn waste	do.	1
5.	Hides and skins whether in a raw or dressed state	At the point of last purchase in the State by a dealer who is liable to tax under section 5	2
6.	Coconut and copra	do.	2
	<i>Explanation.</i> —Where a tax has been levied in respect of copra, the tax, if any, levied and collected in respect of the coconut from which such copra is produced shall be refunded.		
7.	Groundnut	do.	2

## THE THIRD SCHEDULE

**Goods exempted from tax under section 9**

1. Salt.
2. Handspun yarn and any cloth woven on handloom wholly with handspun yarn.
3. Cloth woven on handlooms wholly or partly with mill yarn, whether fringed or hemmed.
4. Rice issued from Central or State Government depots for sale through fair price shops declared as such by the Government by notification in the Gazette.
5. Sugar as defined in item No. 1 of the First Schedule to the Central Excises and Salt Act, 1944.

## SCHEDULE—(cont.)

6. Tobacco as defined in item No. 4 of the First Schedule to the Central Excises and Salt Act, 1944.
7. Cotton fabrics, silk fabrics, woollen fabrics and rayon or artificial silk fabrics as defined in items Nos. 19, 20, 21 and 22 respectively of the First Schedule to the Central Excises and Salt Act, 1944.
8. Green tea leaves.
9. Plantain fruits, bananas, mangoes, jack fruits, and oranges.
10. Vegetables (other than green ginger), whether roots, green fruits or leaves, used for human consumption including tapioca, yam, potatoes, lime, sabola and tomatoes, except their manufactured products.

*Explanation.*—The term “vegetables” shall not include any goods of the description specified in the First or Second Schedule.

11. Toddy.

*Explanation.*—“Toddy” means the fermented or unfermented juice drawn from coconut, palmyra, date or any other kind of palm tree, but shall not include juice drawn into receptacles freshly coated internally with lime or otherwise treated so as to prevent any fermentation.

12. Cooked food including coffee, tea and like articles served in a hotel, restaurant or any other place by a dealer whose total turnover in respect of such food is less than twenty thousand rupees in a year.
13. Cloth woven on power loom.
14. Lime and limeshell.
15. Eggs.

## Act 15 of 1969

### THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1969

An Act further to amend the Kerala General Sales Tax Act, 1963 .

Preamble . —WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

Be it enacted in the Twentieth Year of the Republic of India as follows: —

1. Short title and commencement . — (1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1969.

(2) Section 3 shall be deemed to have come into force on the 1st day of April, 1963, sections 4, 5 and 6 shall come into force on the 1st day of April, 1969 and the remaining provisions of this Act shall come into force at once.

2. Amendment of section 4 . — In section 4 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), in sub-section ( 1), for the words "who is or has been a Judicial Officer", the words "who is, or has been, or is qualified to be appointed as, a Judicial Officer" shall be substituted.

3. Insertion of new section 21A. — After section 21 of the principal Act, the following section shall be inserted, namely:—

"21A. Firm dissolved or business discontinued. — (1) Where any business carried on by a firm is discontinued or where a firm is dissolved, the assessing authority shall make an assessment of the taxable turnover of, and determine the tax payable by, the firm as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to levy of penalty or any other amount payable under any provision of this Act, shall apply, so far as may be, to such assessment and determination.

(2) Without prejudice to the generality of sub-section (1), if the assessing authority in the course of any proceedings under section 19 in respect of any such firm as is referred to in that sub-section is satisfied that the firm was guilty of wilful non-disclosure of assessable turnover, it may direct payment of a penalty in accordance with the provisions of sub-section (2) of that section.

(3) Every person who was, at the time of such discontinuance or dissolution, a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other amount payable, and

all the provisions of this Act shall apply, so far as may be, to any such assessment or direction for payment of penalty or other amount.

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of any year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of section 20 ."

4. Amendment of the First Schedule .— In the First Schedule to the principal Act, —

(a) for Serial Numbers 40 and 47 and the entries relating thereto, the following Serial Numbers and entries shall respectively be substituted, namely: —

"40. Upholstered furniture, sofa sets, dressing tables

and furniture of all types made of timber do. 7

47. Stainless steel products do. 7";

(b) for the figure "4" in column (4) against Serial Number 66, the figure "5" shall be substituted;

(c) for Serial Number 71 and the entries relating thereto, the following Serial Number and entries shall be substituted, namely: —

"71. Rubber do. 3".

5. Amendment of the Second Schedule. — *In* the Second Schedule to the principal Act, for the figure "2" in column (4) against Serial Number 6, the figure "3" shall be substituted.

6. Amendment of the Third Schedule .— *In* the Third Schedule to the principal Act, item 14 shall be omitted.

7. Validation. — (*I*) Notwithstanding any judgment, decree or order of any court, tribunal or other authority, any assessment, levy or collection of any tax on the turnover of a firm which has been dissolved or the business carried on by which has been discontinued, made or purporting to have been made under the principal Act before the date of publication of this Act in the Gazette shall be deemed to be as valid and effective as if such assessment, levy or collection had been made under the principal Act as amended by this Act, and accordingly—

(a) all acts, proceedings or things done or taken by any officer or authority in connection with the assessment, levy or collection of such tax shall, for all purposes, be deemed to be, and to have always been, done or taken in accordance with law;

(b) no suit or other proceeding shall be maintained or continued in any court, tribunal or other authority for the refund of any such tax so collected;

(c) no court shall enforce any decree or order directing the refund of any such tax so collected; and

(d) any such tax assessed under the principal Act before the date of publication of this Act in the Gazette, but not collected before that date, may be recovered in the manner provided under the principal Act as amended by this Act and the rules made there under:

Provided that nothing contained in this section shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of publication of this Act in the Gazette, if such act or omission would not be an offence under the principal Act but for the provisions of this Act.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any tax paid by him in excess of the amount due from him under the principal Act as amended by this Act.

## ACT 18 OF 1969

### THE KERALA SALES TAX (LEVY AND VALIDATION) AMENDMENT ACT, 1969 [\[1\]](#)

An Act to amend the Kerala Sales Tax (Levy and Validation) Act, 1965.

Preamble . —WHEREAS it is expedient to amend the Kerala Sales Tax and Validation) Act, 1965, for the purpose hereinafter appearing,

Be it enacted in the Twentieth Year of the Republic of India as follows: —

1. Short title. — This Act may be called the Kerala Sales Tax Levy and Validation) Amendment Act, 1969.

2. Amendment of section 4 .— In section 4 of the Kerala Sales Tax Levy and Validation) Act, 1965 (4 of 1965), for sub-section ( 1), the following sub-section shall be, and shall be deemed always to have been, substituted, namely: —

"(1) Notwithstanding any judgment, decree or order of any court, tribunal or other authority, all taxes levied, assessed or collected or purported to have been levied, assessed or collected under the General Sales Tax Act during the period commencing on and from the 1st day of April, 1958 and ending with the 26th day of September, 1965, on the purchase of copra or cashewnut kernel shall be deemed to have been validly levied, assessed or collected in accordance with law; and accordingly—

(i) no suit or other proceeding shall be maintained or continued in an court, tribunal or other authority for the refund of any such tax paid under the General Sales Tax Act;

(ii) no court *shall* enforce a decree or order directing the refund of any such tax paid under the General Sales Tax Act;

(iii) any such tax assessed under the General Sales Tax Act before the 27 th day of September, 1965, but not collected, may be assessed within five years of the date of publication of this Act and recovered in the manner provided under the General Sales Tax Act and the rules made thereunder.”.

(iv) any such tax not assessed under the General Sales Tax Act before the 27 th day of September, 1965, may be assessed within five years of the date of publication of this Act and recovered in the manner provided under the General Sales Tax Act and the rules made hereunder.”

**Act 29 of 1971**

**THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1971**[\[1\]](#)

An Act further to amend the Kerala General Sales tax Act, 1963.

*Preamble.*—WHEREAS it is expedient further to amend the Kerala General Sales tax Act, 1963, for the purposes hereinafter appearing;

Be it enacted in the Twenty-second Year of the Republic of India as follows: —

1. *Short title and commencement.*— (1) This Act may be called the Kerala General Sales tax (Amendment) Act, 1971.

(2) It shall be deemed to have come into force on the 1 st day of April, 1971.

2. *Amendment of section 5.*—In section 5 of the Kerala General Sales tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), in sub-section (1), —

(i) for the words “ten thousand rupees”, the words “twenty thousand rupees” shall be substituted;

(ii) the following proviso shall be inserted at the end, namely:

“Provided that every dealer in cooked food including coffee, tea and like articles served in a hotel, restaurant or any other place, whose total turnover in respect of such food is not less than one lakh rupees shall pay tax at the rate of four per cent on his taxable turnover.”.

3. *Amendment of section 5A.*—In section 5A of the principal Act, —

(a) in sub-section (2), for the words “ten thousand rupees”, the words “twenty thousand rupees” shall be substituted;

(b) in sub-section (3), —

(i) for the words “ten thousand rupees”, the words “twenty thousand rupees” shall be substituted;

(ii) for the words “at the rates”, the words “at the rate” shall be substituted.

4. *Amendment of section 7.*—In section 7 of the principal Act, in sub-section (1), for clauses (i) and (ii), the following clauses shall be substituted, namely: —

“(i) every dealer (other than a dealer in cooked food including coffee, tea and like articles served in a hotel, restaurant or any other place) whose total turnover in a year is

not less than twenty thousand rupees but is not more than twenty-five thousand rupees may, at his option, instead of paying the tax in accordance with the provisions of that sub-section, pay tax at the rate of one and a half per cent on his taxable turnover.

(ii) every dealer in cooked food including coffee, tea and like articles served in a hotel, restaurant or any other place, whose total turnover in respect of such food is not less than thirty-five thousand rupees but is less than one lakh rupees, may, at his option, instead of paying the tax in accordance with the provisions of that sub-section in respect of the turnover relating to such food, pay tax at the following rates: —

Rs.

(a) Where the total turnover is not less than  
thirty-five thousand rupees but is less than forty  
thousand rupees

540.00

(b) Where the total turnover is not less than forty thousand  
rupees but is less than fifty thousand rupees

720.00

(c) Where the total turnover is not less than fifty thousand  
rupees but is less than seventy-five thousand rupees

1,500.00

(d) Where the total turnover is not less than seventy-five  
thousand rupees but is less than one lakh  
rupees

2,250.00”

*5. Amendment of the third Schedule.*—In the third Schedule to the principal Act, in item 12, for the words “twenty thousand rupees”, the words “thirty-five thousand rupees” shall be substituted.

**THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1978**

(ACT 21 OF 1978)

*An Act further to amend the Kerala General Sales Tax Act, 1963.*

*Preamble.*—WHEREAS it is expedient further to amend to Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1978.

(2) It shall be deemed to have come into force on the 1<sup>st</sup> day of April, 1978.

2. *Amendment of section 2.*—In section 2 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),—

(1) in clause (viii),—

(i) sub-clause (a) shall be omitted;

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

“(e) a person who, whether in the course of business or not, sells—

(i) goods produced by him by manufacture, agriculture, horticulture or otherwise; or

(ii) trees which grow spontaneously and which are agreed to be severed before sale or under the contract of sale.”;

(2) after clause (xvi), the following clause shall be inserted, namely:—

“(xvi) “person” includes—

(i) an individual;

(ii) a joint family;

(iii) a company:

(iv) a firm;

(v) an association of persons or a body of individuals, whether incorporated or not ;

(vi) The Central Government or the Government of Kerala or the Government of any other State or Union Territory in India;

(vii) a local authority;

(viii) every artificial juridical person not falling under any of the preceding sub-clauses;”;

(3) in clause (xxi), after *Explanation (IA)*, the following *Explanation* shall be inserted, namely:—

“*Explanation (IB)*.—A transfer of property in trees which grow spontaneously and which are agreed to be severed before sale or under the contract of sale by the person entitled to make such transfer, whether in the course of trade or business or otherwise, for cash or for deferred payment or other valuable consideration, shall be deemed to be a sale for the purposes of this Act.”;

(4) to clause (xxvi), the following *Explanation* shall be added, namely:—

“*Explanation*.—Notwithstanding anything contained in any other provision of this Act, in the case of goods which are taxable at the point of last purchase in the State by a dealer liable to tax under section 5, and which are held as closing stock on the last day of any financial year, the amount for which such goods were purchased by the dealer shall be deemed also to be a part of his total turnover for the subsequent year or each of the subsequent years until such goods are either sold by him in the State or such purchase acquires the character of last purchase in the State in the hands of such dealer, and in case such purchase acquires the character of last purchase in the State in the hands of such dealer, the turnover in respect of such purchase shall be liable to tax in the year in which the purchase acquires the character of last purchase;”.

3. *Amendment of section 3*.—In section 3 of the principal Act, after sub-section (3), the following subsections shall be inserted, namely:—

“(4) The Board of Revenue or the Deputy Commissioner may, by order in writing,—

(a) transfer any case or cases relating to any assessee or class of assesses pending before an assessing authority to another assessing authority having jurisdiction to deal with such case or cases; or

(b) specify one of the assessing authorities having jurisdiction over an area, which shall deal with any case or cases relating to any assessee or class of assesses.

(5) Where any case is transferred to an assessing authority under clause (a) of subsection (4), such assessing authority may deal with the case either *de novo* or from the stage at which it was transferred.”.

4. *Amendment of section 5.*—In section 5 of the principal Act,—

(a) in subsection (2), for the words “two thousand five hundred rupees”, the words “ten thousand rupees” shall be substituted;

(b) in subsection (3), the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the purposes of this subsection, “component part” means an article which forms an identifiable constituent of any finished product, which along with others goes to make up the finished product and which is identifiable visually and is separable by a mechanical process and not by a chemical process, provided the identity of such article is not lost by separation.”;

(c) in subsection (4), for the words “at the rate of four per cent of his taxable turnover in respect of the goods other than those specified in the First or Second Schedule”, the words “on his taxable turnover in respect of such goods” shall be substituted.

5. *Amendment of section 5A.*—In section 5A of the principal Act, in the proviso to subsection (2), for the words “two thousand five hundred rupees”, the words “ten thousand rupees” shall be substituted.

6. *Amendment of section 13.*—In subsection (2) of section 13 of the principal Act, for the words “two thousand five hundred rupees”, the words “ten thousand rupees” shall be substituted.

7. *Amendment of section 14.*— In section 14 of the principal Act,—

(a) after subsection (2), the following subsection shall be inserted, namely:—

“(2A) Where it appears necessary to the prescribed authority so to do for the proper realisation of the tax payable under this Act, it may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of the registration certificate a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified.”;

(b) in subsection (4), for the words “security for the proper payment of tax”, the words, brackets, figure and letter “security, or if the dealer has already furnished any security in pursuance of an order under subsection (2A), additional security, for the proper payment of tax” shall be substituted.

8. *Amendment of section 17.*—In section 17 of the principal Act, for subsections (4), (5) and (6), the following subsections shall be substituted, namely:—

“(4) Notwithstanding anything to the contrary contained in subsection (3), the assessing authority shall accept the return for any two years out of the three consecutive years beginning with the year 1977-78 submitted by any dealer whose total turnover as assessed under this Act according to the latest completed assessment and the total turnover specified in the return submitted by the assessee for the year for which the assessment is to be made accepting the return, does not exceed one lakh rupees and assess the dealer on the basis of such return:

Provided that the provisions of this subsection shall not apply if the tax due as specified in the return is less than the tax assessed according to the latest completed assessment by more than—

(a) twenty-five per cent, if the tax so assessed is not more than two hundred rupees;

(b) twenty per cent, if the tax so assessed is more than two hundred rupees but less than five hundred rupees;

(c) ten per cent, if the tax so assessed is not less than five hundred rupees:

Provided further that the provisions of this subsection shall not apply in the case of a dealer who has been punished or on whom a penalty has been imposed for evasion of tax for the year for which the return has been submitted.

(5) It shall be competent for the Board of Revenue to fix the two years for which the returns shall be accepted for the purposes of subsection (4), in respect of any dealer or class or group of dealers.

(6) If in respect of any year out of the three years mentioned in sub-section (4), the dealer is assessed in accordance with the provisions of sub-section (3), then for the next two years the assessing authority shall accept the return submitted by him and assess him on the basis of such return unless the total turnover as assessed under this Act for the said year or the total turnover specified in the return submitted by the dealer for the year for which assessment is to be made is above one lakh rupees.

(7) The provisions contained in the provisos to subsection (4) shall, so far as may be, apply in respect of any assessment under subsection (6).

(8) The system of completing the assessment in accordance with the provisions of subsection (3) for one year and then completing the assessment accepting the return for the next two years shall, subject to the conditions and limitations specified in this section, be continued for subsequent years.

(9) For the removal of doubts, it is hereby clarified that nothing contained in subsections (4), (6) and (8) shall be deemed to exclude the operation of section 19 or section 27 in the case of a dealer assessed under any of the said subsections.”

9. *Insertion of new section 19A.*—After section 19 of the principal Act, the following section shall be inserted, namely:—

“19A. *Assessment in cases of price variation.*—Notwithstanding anything contained in subsection (1) of section 19,—

(a) if a dealer receives in any year any amount due to price variations which would have been included in his turnover for any previous year if it had been received by him in that year, he shall, within thirty days from the end of the year in which such amount is received, submit a return in the prescribed form to the assessing authority and thereupon the assessing authority shall proceed to assess the tax payable on such amount;

(b) if the assessing authority is satisfied that any return submitted under clause (a) is correct and complete, it shall assess the dealer on the basis thereof;

(c) if the return submitted by a dealer under clause (a) appears to the assessing authority to be incorrect or incomplete, the assessing authority shall after making such inquiry as it may consider necessary and after taking into account all relevant materials gathered by it, assess the dealer to the best of its judgment:

Provided that before taking action under this clause the dealer shall be given a reasonable opportunity to prove the correctness and completeness of the return;

(d) if no return is submitted by the dealer under clause (a), the assessing authority may, within four years from the expiry of the period within which such return ought to have been submitted, proceed to assess the tax payable on the amount referred to in the said clause:

Provided that before making any assessment under this clause, the assessing authority shall give the dealer an opportunity of being heard and make such other inquiry as it considers necessary.”

10. *Amendment of section 23.*—In section 23 of the principal Act, in subsection (3), after the words “revising authority” the words “or within the time specified therefore in this Act or in any rule made there under” shall be inserted.

11. *Amendment of section 25.*—In section 25 of the principal Act,—

(a) in sub-section (1), for the words “require any officer of the Government or any local authority, company, firm, society or association of persons from whom money is due or may become due to the dealer, or any officer of the Government

or any local authority, company, firm society or association of persons”, the words and brackets “require any court or any officer of the Central Government or of the Government of any State or Union Territory or any other person (other than an individual) from whom money is due or may become due to the dealer or any court or any such money is due or may become due to the dealer or any court or any such officer or any other person (other than an individual)” shall be substituted;

(b) for subsection (3), the following sub-section shall be substituted, namely:—

“(3) Any court, officer or other person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer, and the receipt by the assessing authority shall constitute a good and sufficient discharge of the liability of such court, officer or other person to the extent of the amount referred to in the receipt.”;

(c) in sub section (4), for the words “Any local authority, company, firm, society or association of persons”, the words “Any court or person other than an officer of the Government” shall be substituted:

(d) for subsections (5) and (6) and the *Explanation* under subsection (6), the following sub section and *Explanation* shall be substituted, namely:—

“(5) Where any court or person other than an officer of the Government to which or to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by it or him to the dealer or that such court or person does not hold any money for or on account of the dealer, then nothing contained in this section shall be deemed to require such court or person to pay the sum demanded or any part thereof to the assessing authority.

(6) Any amount which a court or person other than any officer of the Government is required to pay to the assessing authority or for which it or he is liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of such court or person, as the case may be, and may be recovered as it were an arrear of public revenue due on land.

*Explanation.*—For the purposes of this section, the amount due to a dealer or money held for or on account of a dealer by any court, officer or other person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such court, officer or other person, as the case may be, and as may be lawfully subsisting.”.

12. *Amendment of section 28.*—In section 28 of the principal Act, in the proviso to sub section (6), for the words “forty-five days”, the words “sixty days” shall be substituted.

13. *Insertion of new section 33A.*—After section 33 of the principal Act, the following section shall be inserted, namely:—

“33A. *Warehousemen to submit returns.*—Every warehouseman shall, if so required by an officer not below the rank of an assessing authority, furnish such particulars as he may require in respect of the goods deposited in his warehouse by any dealer, for the purpose of verifying the correctness of the returns submitted and the accounts maintained by such dealer.”.

14. *Amendment of section 34.*—In subsection (1) of section 34 of the principal Act.—

(a) after the word and figures “section 19,” the word, figures and letter “section 19A,” shall be inserted;

(b) for the words, figures and brackets “section 30 or subsection (2) of section 47”, the words and figures “or section 30” shall be substituted.

15. *Amendment of section 35.*—In section 35 of the principal Act,—

(a) in subsection (1), for the words “the Inspecting Assistant Commissioner or any officer or authority of rank below that of an Inspecting Assistant Commissioner”, the words “any officer or authority subordinate to him other than an Appellate Assistant Commissioner” shall be substituted;

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

“(2A) Notwithstanding anything contained in subsection (2), the Deputy Commissioner may pass an order under subsection (1) on any point which has not been decided in an appeal or revision referred to in clause (b) of subsection (2), before the expiry of a period of one year from the date of the order in such appeal or revision or before the expiry of the period of four years referred to in clause (c) of that sub section, whichever is later.”.

16. *Amendment of section 37.*—In section 37 of the principal Act,—

(a) in subsection (1), for the words “the Deputy Commissioner, Inspecting Assistant Commissioner or any officer or authority of rank below that of an Inspecting Assistant Commissioner”, the words “any officer or authority subordinate to it other than an Appellate Assistant Commissioner” shall be substituted;

(b) after subsection (2), the following subsection shall be inserted, namely:—

“(2A) Notwithstanding anything contained in subsection (2), the Board of Revenue may pass an order under subsection (1) on any point which has not been decided in an appeal or revision referred to in clause (b) of subsection (2), before the expiry of a period of one year from the date of the order in such appeal or revision or before the expiry of a period of four years referred in clause (c) of that subsection, whichever is later.”.

17. *Omission of section 45.*—Section 45 of the principal Act shall be omitted.

18. *Amendment of section 45 A.*—In section 45 A of the principal Act, —

(a) in subsection (1), for the words “an amount of fifty rupees or twice the amount of sales tax or other amount evaded or sought to be evaded whichever is higher”, the words “an amount not exceeding twice the amount or sales tax or other amount evaded or sought to be evaded where it is practicable to quantify the evasion or an amount not exceeding five thousand rupees in any other case” shall be substituted;

(b) for subsection (3), the following subsection shall be substituted namely:—

“(3) The Deputy Commissioner may, on application by any person on whom a penalty is imposed under subsection (1) within thirty days from the date of receipt by him of the order imposing such penalty, for reason 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.”;

(c) in subsection (5),—

(i) in the proviso, for the words “Provided that”, the words “provided further that” shall be substituted;

(ii) before the proviso, the following proviso shall be inserted namely:—

“Provided that Board of Revenue shall not admit an application made after the expiry of thirty days from the date of receipt by the applicant of the order under subsection (1) or subsection (3), as the case may be, unless it is satisfied that the applicant had sufficient cause for not making the application within the said period.”.

19. *Amendment of section 47.*—In section 47 of the principal Act, in clause (b), for the words “one thousand rupees”, the words “five thousand rupees” shall be substituted.

20. *Amendment of section 54.*—In subsection (2) of section 54 of the principal Act, in clause (ix), for the words “Department of the Government”, the words “Department of the Central Government or the Government of Kerala” shall be substituted.

21. *Insertion of new section 59 A.*—After section 59 of the principal Act, the following section shall be inserted, namely:—

“59 A. *Power of Government to determine rate of tax.*—If any question arises as to the rate of tax leviable under this Act on the sale or purchase of any goods, such question shall be referred to the Government for decision, and the decision of the Government thereon shall, notwithstanding any other provision in this Act, be final.”.

22. *Amendment of First Schedule.*— In the First Schedule to the principal Act,—

(i) for Serial Number 1 and the entries relating thereto and the Explanation thereunder, the following shall be substituted, namely:—

“1. Foreign Liquor	At the point of first sale in the State by a	50
	dealer who is liable to tax under section 5	
2. Liquor other than foreign liquor	do.	40
	arrack and toddy	

*Explanation 1.*— “Liquor” means and includes toddy, wine, brandy, champagne, sherry, rum, gin, whisky, beer, cider, coco-brandy, arrack and all other distilled or spirituous or fermented beverages brought into or produced or manufactured in the State.

*Explanation 2.*— “Foreign liquor” means any liquor manufactured in any country other than India and brought to India.”;

(ii) for Serial Number 5 and the entries relating thereto, the following shall be substituted, namely:—

“5. Rubber products other than those specially mentioned in this Schedule, but not including cycle tyres, and tubes and rubber At the point of first sale in the State by a dealer who is liable to tax under 10

accessories of cycles.

section 5

5A Synthetic rubber and its products do. 12”;  
and mixture of rubber and synthetic  
rubber

(iii) in column (4) against Serial Number 6, for the figures “12”, the  
figures “15” shall be substituted;

(iv) for Serial Numbers 7 and 8 and the entries relating thereto, the  
following shall be substituted, namely:—

“7 All varieties of tractors, power At the point of first sale 10  
tillers and bull dozers and spare in the State by a  
parts, component parts and tyres dealer who is liable to  
and tubes thereof. tax under section 5.

8. Motor vehicles, motor vessels, do. 15  
motor engines, chassis of motor  
vehicles, trailers, motor bodies  
built on the chassis of motor  
vehicles, bodies built for motor  
vessels or engines, motor tyres,  
tubes and other spare parts and  
accessories of motor vehicles or  
motor vessels; motor cycles and  
cycle combinations, motor  
scooters, motorettes and tyres,  
tubes and other spare parts and  
accessories of motor cycles, motor  
scooters and motorettes.

8A Rolling bearing, that is to say, do. 8”;  
ball or roller bearing (all kinds)

(v) for the entry in column (2) against Serial Number 9, the following shall  
be substituted, namely:—

“Refrigerators, water  
coolers and air  
conditioning plants and  
machines and component  
parts thereof”;

- (vi) in column (4) against Serial Number 18, for the figures “15”, the figures “20” shall be substituted;
- (vii) in the entry in column (2) against Serial Number 21, for the words “parts thereof”, the words “parts and accessories thereof” shall be substituted;
- (viii) in column (4) against Serial Number 25, for the figure “7”, the figure “8” shall be substituted;
- (ix) in column (4) against Serial Number 25 A, for the figure “9”, the figure “10” shall be substituted;
- (x) in the entry in column (2) against Serial Number 25B, for the words “Mosaic tiles”, the words “Glazed tiles, mosaic tiles” shall be substituted;
- (xi) in the entries relating to Serial Number 25H, in column (4), for the figure “9”, the figures “10” shall be substituted;
- (xii) after Serial Number 25H and the entries relating thereto, Number 25H, the following shall be inserted, namely:—

“25HH Fruits, vegetables, roots and tubers, preserved or pre- pared and canned, tinned or bottled	At the point of first sale in the State by a dealer who is liable to tax under section 5.	10”;
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- (xiii) in column (4) against Serial Number 25NN, for the figure “5” the figure “3” shall be substituted;
- (xiv) in column (4) against Serial Number 25O, for the figure “5”, the figure “6” shall be substituted;
- (xv) after Serial Number 25O and the entries relating thereto, the following shall be inserted, namely:—

“25OO Cotton sewing thread	At the point of first sale in the State by a dealer who is liable to tax under section 5	3”;
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(xvi) for Serial Number 25P and the entries relating thereto, the following shall be substituted, namely:—

“25P. Non-alcoholic drinks and beverages bottled or canned and sold under brand name At the point of first sale in the State by a dealer who is liable to tax under section 5. 10

25PP. Aerated waters, non-alcoholic drinks and beverages bottled or canned and not falling under do. 5”;  
item 25P.

(xvii) after Serial Number 25Q and the entries relating thereto, the following shall be inserted, namely:—

“25R. Titanium Dioxide At the point of first sale in the State by a dealer who is liable to tax under section 5 10”;

(xviii) in column (4) against Serial Number 26, for the figure “9”, the figure “10” shall be substituted:

(xix) for Serial Number 26A, and the entries relating thereto, the following shall be substituted, namely:—

“26A. Water supply and sanitary equipments and fittings At the point of first sale in the State by a dealer who is liable to tax under section 5. 8

26B P.V.C.pipes do. 8”;  
(xx) after Serial Number 32 and the entries relating thereto, the following shall be inserted namely:—

32A. All kinds of suit cases, brief cases At the point of first

and vanity bags, when sold at a price of Rs.50 or above sale in the State by a dealer who is liable to tax under section 5 10”;  
(xxi) for Serial Number 33, and the entries relating thereto, the following shall be substituted, namely:—

“33 Plywood, veneer plywood and hard boards At the point of first sale in the State by a dealer who is liable to tax under section 5. 7

33A. All kinds of laminated sheets and thermocol do. 15”:

(xxii) in column (4) against Serial Number 49, for the figure “5”, the figure “6” shall be substituted;

(xxiii) for Serial Number 54 and 55 and the entries relating thereto, the following shall be substituted, namely:—

- “54 (i) Ammonium Sulphate,  
(ii) Ammonium Sulphate Nitrate,  
(iii) Urea,  
(iv) Ammonium Chloride,  
(v) Sodium Nitrate,  
(vi) Calcium Ammonium Nitrate,  
(vii) Super Phosphate Single,  
(viii) Super Phosphate Triple,  
(ix) Kotka Phosphate,  
(x) Dicalcium Phosphate,

(xi) Pottassium Chloride (Muriate of Potash),

(xii) Sulphate of Potash,

(xiii) Mono Ammonium Phosphate,

(xiv) Di Ammonium Phosphate,

(xv) Ammonium Phosphate Sulphate of any description,



(xxv) for Serial Numbers 65A and 66, and the entries relating thereto, the following shall be substituted, namely:—

“65A(i) Prawns, lobsters, frogs, At the point of last  
froglegs, cuttle fish and crab purchase in the State  
not falling under (ii) below or by a dealer who is  
25H (viii) liable to tax under  
section 5  
5

(ii) Prawns, lobsters, frog, frog-  
legs, cuttle fish and crab can-  
ned or tinned or frozen or  
otherwise processed not falling  
under item 25H (viii) do.  
5

66. Cashewnut with shell do.

5

66A. Cashewnut kernel At the point of first  
sale in the State by a  
dealer who is liable  
to tax under section 5  
5”.

23. *Amendment of Third Schedule.*—In the Third Schedule to the principal Act,—

- (i) serial Number 8 and the entry relating thereto shall be omitted;
- (ii) before Serial Number 12 and the entry relating thereto, the following shall be inserted, namely:—

“11A. Arrack.”.

24. *Validation.*—Notwithstanding anything contained in the principal Act or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, any order purported to have been passed or any other action purported to have been taken, before the commencement of this Act, by a Deputy Commissioner in revision against the orders of any Assistant Commissioner of Salestax who has been invested with the powers of an assessing authority in the purported exercise of the powers conferred by section 35 of the principal Act shall be, and shall be deemed always to have been, valid and in accordance with law as if such order was passed or such other action was taken in

exercise of the powers conferred by section 35 of the principal Act as amended by this Act.

25. *Repeal and saving.*—(1) The Kerala General Sales Tax (Amendment) Ordinance, 1978 (10 of 1978), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

**THE KERALA GENERAL SALES TAX**  
**(AMENDMENT) ACT, 1980** [\[1\]](#)  
**(Act 19 of 1980)**

*An Act further to amend the Kerala General Sales Tax Act, 1963.*

*Preamble.*—WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Thirty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1980.

(2) Clause (a) of section 3 and sections 4, 5, 7, 9, 10 and 12 shall be deemed to have come into force on the 1st day of April, 1980 and the remaining provisions of this Act shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), in clause (vii), the words "of a business nature" shall be omitted.

3. *Amendment of section 5.*—In section 5 of the principal Act,—

(a) in sub-section (1), for the words "twenty-five thousand rupees", the words "thirty-five thousand rupees" shall be substituted;

(b) in sub-section (3), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the goods sold are capable of being used as component part of any of the goods mentioned in the First Schedule."

4. *Amendment of section 5A.*—In section 5A of the principal Act,—

(a) in sub-section (2), for the words "twenty-five thousand rupees", the words "thirty-five thousand rupees" shall be substituted;

(b) in sub-section (3), for the words "twenty-five thousand rupees" and "thirty thousand rupees", the words "thirty-five thousand rupees" and "forty thousand rupees" shall respectively be substituted.

5. *Amendment of section 7.*—In section 7 of the principal Act, in sub section (1), for the words "twenty-five thousand rupees" and "thirty thousand rupees", the words

"thirty-five thousand rupees" and "forty thousand rupees" shall respectively be substituted.

6. *Amendment of section 10.*—In section 10 of the principal Act, in sub-section (1), after the words "make an exemption or reduction in rate," the words "either prospectively or retrospectively," shall be inserted.

7. *Amendment of section 13.*—In section 13 of the principal Act, in sub-section (1), for the words "twenty-five thousand rupees", the words "thirty-five thousand rupees" shall be substituted.

8. *Amendment of section 14.*—In section 14 of the principal Act, for sub section (2), the following sub-section shall be substituted, namely:—

"(2) If the prescribed authority after making such enquiries as it may consider necessary is satisfied—

- (a) that the application is in order;
- (b) that the particulars furnished therein are correct; and
- (c) that the security, if any, required to be furnished under sub section (2A) has been furnished,

it shall register the applicant and issue to him a certificate in the prescribed form."

9. *Amendment of section 17.*—In section 17 of the principal Act,—

(a) in subsection (4),—

(i) for the word, brackets and figure "subsection (3)", the words, brackets, figures and letter "subsections (3) and (4A)" shall be substituted;

(ii) in the second proviso, after the words "penalty has been imposed", the words and figures "or from whom a sum of money has been accepted under section 47" shall be inserted;

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

"(4A) Notwithstanding anything to the contrary contained in subsection (3), in the case of a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969), the assessing authority shall make the final assessment for the year 1980-81 and for every subsequent year on the basis of the return furnished by that society, if such return is duly supported by the audit report of such society issued by the Registrar of Co-operative Societies:

Provided that the provisions of this subsection shall not apply if the audit report of the co-operative society issued by the Registrar of Co-operative Societies is not furnished within a period of three years from the expiry of the year to which it relates:

Provided further that the provisions of this subsection shall not apply in the case of a co-operative society which has been punished or on which a penalty has been imposed or from which a sum of money has been accepted under section 47 for evasion of tax for the year for which the return has been furnished;"

- (c) in subsection (9), after the brackets and figure "(4)," the brackets, figure and letter "(4A)," shall be inserted.

10. *Amendment of section 18.*—In section 18 of the principal Act,—

- (a) to subsection (1A), the following provisos shall be added namely:—

"Provided that in the case of a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969), the assessing authority shall determine the amount of tax payable in respect of the year 1980-81 and each subsequent year on the basis of the return and the latest audit report of the society issued by the Registrar of Co-operative Societies and furnished by such society:

Provided further that the provisions of the foregoing proviso shall not apply in the case of a co-operative society which has been punished or on which a penalty has been imposed or from which a sum of money has been accepted under section 47 for evasion of tax for the year for which the return has been furnished.";

- (b) after subsection (2), the following subsection shall be inserted, namely:—

"(2A) Notwithstanding anything to the contrary contained in sub-section (2), the assessing authority shall accept the return submitted by any dealer whose total turnover as assessed under subsection (2) according to the latest completed assessment does not exceed one lakh rupees and determine the amount of tax payable by the dealer on the basis of such return:

Provided that the provisions of this subsection shall not apply if the tax due as specified in the return is less than the tax assessed according to the latest completed assessment by more than—

- (a) twenty-five per cent, if the tax so assessed is not more than two hundred rupees;

- (b) twenty per cent, if the tax so assessed is more than two hundred rupees, but less than five hundred rupees;

- (c) ten per cent, if the tax so assessed is not less than five hundred rupees:

Provided further that the provisions of this subsection shall not apply in the case of a dealer who has been punished or on whom a penalty has been imposed or from whom a sum of money has been accepted under section 47 for evasion of tax for the year for which the return has been submitted."

11. *Amendment of section 3.*—In section 23 of the principal Act, after subsection (3), the following subsections shall be inserted, namely:—

"(4) Where, as a result of any order in appeal or revision or any rectification under section 43, any dealer or other person is not liable to pay the tax assessed or any other amount, the levy of penal interest for the non-payment of such tax or other amount shall be cancelled and if any amount of such penal interest has been collected, it shall be refunded to the dealer or other person, as the case may be.

(5) Where, as a result of any order in appeal or revision or any rectification under section 43, any tax assessed or any other amount due from any dealer or other person has been reduced, the penal interest levied for the nonpayment of such tax or other amount shall be proportionately reduced and if any amount of penal interest in excess of such reduced penal interest has been collected, such excess shall be refunded to the dealer or other person, as the case may be.

(6) The provisions of subsections (4) and (5) shall, so far as may be, apply, in respect of penal interest levied for the non-payment of tax provisionally assessed which has been reduced in part or in full as a result of final assessment."

12. *Amendment of section 34.*—In subsection (1) of section 34 of the principal Act, for the words, brackets and figures "subsection (3) of section 17", in both the places where they occur, the words, brackets, figures and letter "subsection (3) or subsection (4A) of section 17" shall be substituted.

13. *Amendment of section 45A.*—In subsection (1) of section 45A of the principal Act, the *Explanation* shall be numbered as *Explanation I* and after that *Explanation*, the following *Explanation* shall be inserted, namely: —

"*Explanation II.*—For the purposes of this subsection, the expression "assessing authority" includes any officer not below the rank of Sales Tax Officer specified by the Government in this behalf by notification in the Gazette."

14. *Substitution of new section for section 46A.*—For section 46A of the principal Act, the following section shall be substituted, namely:—

"46A. *Penalty for illegal collection of tax.*—(1) If any person collects any sum by way of tax or purporting to be by way of tax in contravention of subsection (2) or subsection (3) of section 22, he shall be liable to pay penalty not exceeding five thousand rupees and any sum collected by the person by way of tax or purporting to be by way of tax in contravention of subsection (2) or subsection (3) of section 22 shall be liable to be

forfeited to the Government by an order issued by the assessing authority after giving such person an opportunity to show cause why such penalty or forfeiture shall not be ordered:

Provided that no penalty or forfeiture shall be ordered under this subsection if the assessing authority is satisfied that the sum so collected has been returned to the person from whom it was collected.

(2) Where any sum is forfeited to the Government under subsection (1), any person from whom the amount was collected in contravention of the provisions of subsection (2) or subsection (3) of section 22 may apply to the assessing authority for reimbursement of such sum and the amount shall be reimbursed to such person in the prescribed manner.

(3) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed or forfeiture has been ordered under this section."

15. *Substitution of new Schedule for First Schedule.*—For the First Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE

**[Goods in respect of which single point tax is leviable under subsection (1) or subsection (2) of section 5]**

<i>Sl. No.</i>	<i>Description of goods</i>	<i>Point of levy</i>	<i>Rate of tax</i>
(1)	(2)	(3)	(4)
	<i>Meat and meat preparations</i>		
1	Meat kept in cold storage, chilled or frozen and dried or smoked	At the point of first sale in the State by a dealer who is liable to tax under section 5.	6
2	Meat and preparations of meat and meat offals sold in air-tight containers	do	10
	<i>Dairy products</i>		
3	Milk products, including milk powder, baby food, ghee, cheese and butter	At the point of first sale in the State by a dealer who is liable to tax under section 5	10
	<i>Fish and fish preparations</i>		
4	(i) Prawns, crustaceans, molluscs, frogs and frog legs, not falling under item	At the point of last purchase in the State by a dealer	5

	(ii) below	who is liable to tax under section 5	
	(ii) Prawns, crustaceans, molluscs, frogs and frog legs, canned or otherwise processed.	do	5
5	Fish and fish preparations, sold in air-tight containers	At the point of first sale in the State by a dealer who is liable to tax under section 5.	10
6	Foods, including preparations of birds, eggs, animal blood, prawns, crustaceans and molluscs, sold in air-tight containers	do	10

***Cereals and cereal preparations***

7	Rice products and wheat products <i>Explanation.—</i> “Rice products” means parched, puffed or beaten rice and “wheat products” means maida, atta, suji, rava, resultant atta and bran	do	4
8	Biscuits sold under brand names (Patented)	do	10
9	Biscuits not specified in item 8 and bakery products excluding bread	do	5
10	Pulses other than those coming under declared goods	do	4

***Fruits and vegetables***

11	Cashewnut with shell	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	5
12	Cashew kernel	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5
13	Coconuts (other than those coming under declared goods)	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	5
14	Tamarind	At the point of first sale in the State by a dealer who is liable to tax under section 5.	6
15	Fruits, vegetables, roots, tubers, cereals, flour and starch preserved or prepared and sold in air-tight containers	do	10
16	Tapioca	At the point of last purchase in the State by a dealer who is liable to tax under section 5:	2

Provided that a dealer shall not be liable to pay tax under this Act in respect of tapioca, if his turnover of the purchase of tapioca within the State is less than thirty-five thousand rupees and such tapioca is sold for domestic consumption and for use as food materials:

Provided further that an authorised retail distributor appointed under the Kerala Rationing Order, 1966, shall not be liable to pay tax under this Act in respect of tapioca sold to ration card holders, whatever be his turnover.

17	Sugarcane	At the point of last	5
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		purchase in the state by a dealer who is liable to tax under section 5.	
18	Chicory	At the point of first sale in the State by a dealer who is liable to tax under section 5.	6
	<i>Sugar preparations</i>		
19	Jaggery other than palmgur	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
20	Confectionery, including toffees and chocolates <i>Coffee, tea, spices and manufacturers thereof</i>	do	10
21	Coffee, that is to say, any one the forms of coffee such as coffee beans, coffee seeds (raw or roasted), coffee powder, but not including coffee drink.	At the point of first sale in the State by a dealer who is liable to tax under section 5	6
22	Green tea leaves and manufactured tea <i>Explanation.</i> —Where a tax has been levied in respect of manufactured tea, the tax, if any, levied and collected in respect of green tea leaves from which such manufactured tea is produced shall be refunded	do	5
23	(i) Garbled pepper	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	6
24	(ii) Ungarbled pepper Cardamom	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5

25	Green and dried ginger	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	4
26	Turmeric	At the point of first sale in the State by a dealer who is liable to tax under section 5	6
27	Spices (including chillies and corriander seed) falling under any other items in this Schedule	At the point of first sale in the state by a dealer who is liable to tax under section 5	8
28	Kacholam	At the point of last purchase in the State by a dealer who is liable to tax under Section 5	6
	<i>Feeding stuff for animals</i>		
29	Coconut oil cake	At the point of first sale in the State by a dealer who is liable to tax under section 5	5
30	Cattle feed (including gingili oil cake and groundnut oil cake and rice bran) and poultry feeds	do	5
31	Neem cake	do	5
	<i>Beverages</i>		
32	Ice	do	5
33	Non-alcoholic drinks, squashes, sauces and beverages, bottled or canned and sold under brand name.	do	10

*Explanation.*—Powders and Tablets used for preparations of non-alcoholic drinks shall, whether or not they are bottled or canned, be liable to tax under this item or item 34.

34	Aerated waters, non-alcoholic drinks and squashes, sauces and beverages, bottled or canned, not falling under item 33.	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5
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35	Foreign liquor	do	50
36	Liquor other than foreign liquor, arrack and toddy	do	40

*Explanation (1)*—“Liquor” means and includes toddy, wine, brandy, champagne, sherry, rum, gin, whisky, beer, cider, cocoa-brandy, arrack, and all other distilled or spirituous or fermented beverages brought into or produced or manufactured in the State.

*Explanation (2)*—“Foreign liquor” means any liquor manufactured in any country other than India and brought to India.

37	Vinegar	do	8
	<i>Rubber</i>		
38	Rubber excluding synthetic rubber	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	5
39	Rubber products other than those specifically mentioned in this Schedule	At the point of first sale in the State by a dealer who is liable to tax under section 5.	10
40	Synthetic rubber and its products and mixture of rubber and synthetic rubber and its products	At the point of first sale in the State by a dealer who is liable to tax under section 5	12
	<i>Textile fibres</i>		
41	Sewing thread, twisted yarn and such other yarn or thread, not coming under declared goods and not mentioned elsewhere in this Schedule	do	3
42	Artificial silk yarn and staple fibre yarn	do	2
43	Synthetic polyester fibre	do	2
44	Aloe yarn and its products	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	2

*Iron and steel articles not falling under any other items in the*

	<i>Schedule</i>		
45	Iron and steel articles, not mentioned elsewhere in this Schedule or the Second Schedule	At the point of first sale in the State by a dealer who is liable to tax under section 5.	6
46	G.I. Pipes and Cast Iron Pipes <i>Crude animal and vegetable materials not falling under any other items in this Schedule</i>	do	4
47	Arecanut	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	6
48	Nuxvomica	At the point of last purchase in the State by a dealer who is liable to tax under section 5	6
49	Beedi leaves	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5
	<i>Petroleum and Petroleum products</i>		
50	Motor spirit other than petrol and aviation gasoline	At the point of sale in the State by any oil company liable to tax under section 5, except where the sale is by any oil company to another oil company	20
51	Petrol other than Naphtha	do	15
52	Aviation gasoline	do	12
53	Aviation turbine fuel	do	8
54	Naphta	do	5
55	Kerosene	do	4
56	Furnace oil	do	5

*Explanation.*—For the purposes of Sl. Nos.50 to 56 above, “oil company” means Cochin Refineries Ltd., Indian Oil Corporation Ltd., Bharat

Petroleum Corporation Ltd., Caltex Oil Refining (India) Ltd., Hindustan Petroleum Corporation Ltd., Indo-Burmah Petroleum Company Ltd., and includes such other Company as the Government may from time to time, by notification in the Gazette, specify in this behalf.

57	Lubricating oil, greases, break fluid, transformer oil and other quenching oils	At the point of first sale in the State by a dealer who is liable to tax under section 5	7
	<i>Gas, natural and manufactured</i>		
58	Liquified petroleum gas	At the point of first sale in the State by a dealer who is liable to tax under section 5.	15
59	Industrial gas such as oxygen, acetylene, nitrogen and carbondioxide	do	7
	<i>Fixed vegetable oil and fats</i>		
60	Coconut oil	do	5
61	All edible oils including refined or hydrogenated oil and margarene, except coconut oil	do	8
	<i>Chemical elements and compounds</i>		
62	Menthol	do	8
63	Glycerene	do	6
64	Camphor	do	6
65	All acids	do	6
66	Titanium dioxide	do	10
67	Caustic soda and caustic potash	do	8
68	Soda ash	do	8
69	Sodium sulphate	do	8
70	Sodium silicate	do	8
71	Chemicals not elsewhere specified in this Schedule	At the point of first sale in the State by a dealer who is liable to tax under section 5	8
	<i>Dyeing, tanning and colouring materials</i>		
72	Paints, colours, lacquers,	do	7

	varnishes, pigments, polishes indigo, enamel, putty, bale oil, white oil, turpentine oil thinners, emers and paint brushes		
73	Dye stuff	do	7
	<i>Medicinal and Pharmaceutical products</i>		
74	Allopathic medicines	do	6
75	Other medicines and drugs including Ayurvedic, Homeopathic, Sidha and Unani preparations.	do	6
76	Surgical cotton, absorbant cotton and wool I.P. bandage	do	6
	<i>Essential oils and perfume materials</i>		
77	Lemongrass oil	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	6
78	Laurel oil	do	5
79	Tooth powder and tooth paste	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
80	Talcum powder, other perfumeries and cosmetics, not falling under any other item in this Schedule	At the point of first sale in the State by a dealer who is liable to tax under section 5	10
81	Soap	do	5
82	Detergent powders, flakes and liquid and laundry brightness	do	8
83	Denatured spirit	do	8
	Fertilisers—manufactured		
84	(i) Ammonium Sulphate	At the point of fist sale in the State by a dealer who is liable to tax under section 5	2

(ii) ammonium Sulphate Nitrate

- (iii) Urea
- (iv) Ammonium Chloride
- (v) Sodium Nitrate
- (vi) Calcium Ammonium Nitrate
- (vii) Super Phosphate Single
- (viii) Super Phosphate Tripple
- (ix) Kotka Phosphate
- (x) Diceleium Phosphate
- (xi) Potassium Chloride  
(Muriate of Potash)
- (xii) Sulphate of Potash
- (xiii) Mono Ammonium  
Phosphate
- (xiv) Di Ammonium Phosphate
- (xv) Ammonium Phosphate  
Sulphate of any description
- (xvi) Nitro Phosphate of any  
description                      At the point of first                      2  
sale in the State by  
a dealer who is  
liable to tax under  
section 5
- (xvii) N.P.K. Complex of  
various grades
- (xviii) Bone meal
- (xix) Urea Ammonium  
Phosphate
- (xx) Fused Calcium  
Megnesium Phosphate

- (xxi) Rock Phosphate
- (xxii) Chillion Nitrate
- (xxiii) Dolomite
- (xxiv) Ultraphos
- (xxv) Mazoon Phosphate
- (xxvi) Calcium Carbonate
- (xxvii) Any mixture of one or more of the articles mentioned in items (i) to xxvi) above, with or without the addition of other articles (on the turnover relating to components thereof, which have not already suffered tax).

<i>Explosives and pyrotechnic products</i>			
85	Fireworks including coloured matches	At the point of first sale in the State by a dealer who is liable to tax under section 5.	12
<i>Plastic materials, etc.</i>			
86	Cellophane	do	6
<i>Chemical materials and products not falling under any other item in the Schedule</i>			
87	Pesticides and plant protection chemicals	At the point of first sale in the State by a dealer who is liable to tax under section 5	4
<i>Leather, leather manufacture</i>			
88	All kinds of suit cases, brief cases and vanity bags when sold at a price of Rs.50 and above	do	10

89	Leather goods of all kinds, not specified in item No.88 above (other than hand-made foot-ware when sold at a price not exceeding Rs.5)	do	7
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*Rubber manufacture not falling under any other item in this Schedule*

90	Tyres and tubes for motor vehicles, including trucks and buses	do	15
91	Tyres and tubes for motor cycles, motor-scooters, mopeds and motoretters	do	15
92	Tyres and tubes for cycles and tandem cycles	do	6
93	Foamed rubber sheets, cushions, pillows and other articles of foamed rubber	do	15

*Wood and cork manufactures*

94	Splints and veneers	At the point of first sale in the State by a dealer who is liable to tax under section 5	4
95	Plywood, veneer plywood and hard boards	do	7
96	Tea chests <i>Explanations.</i> —The planks and panels, which form the chest when assembled; will come under tea chest for the purpose of this entry	do	6

*Paper, paper board and manufacture thereof*

97	Paper (other than newsprint), card boards and their products	do	8
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*Textile yarn, Fabrics and related articles*

98	Coconut fibre, coir yarn, coir products and bonded fibre fabrics of coir	At the point of last purchase in the State by a dealer who is liable to tax under section 5	2
99	Rubberised coir products	At the point of first sale in the State by a dealer who is liable to tax under section 5	6
100	Bonded fibre fabrics other than those made of coir	do	10
101	Silk fabrics, that is to say, all varieties of fabrics manufactured either wholly or partly from silk including embroidery in piece, in strips or in motifs, but not including such fabrics on which duty of excise is leviable under sub-section (i) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (Central Act 58 of 1957)	At the point of first sale in the State by a dealer who is liable to tax under section 5.	7

*Non-metallic mineral manufactures not falling under any other item in this Schedule*

102	Cement	do	8
103	Asbestos sheets and products	do	10
104	Bricks and tiles (kilin burnt)	do	5
105	Glazed tiles, mosaic tiles, marble tiles, marble slabs and chips	do	15
106	Spectacles, glasses, goggles, rough blanks, lenses, framed attachment parts and accessories thereof	do	7
107	Mirrors	do	10
108	Chinaware and porcelain ware	do	10
109	Clay products	do	4
110	Bangles, excluding those made of	do	5

	gold, silver and other metals		
111	Glassware	do	10
112	Precious stones, namely, diamonds, emeralds, rubies, real pearls and sapphires, synthetic or artificial precious stones/pearls, artificial or cultured	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5
113	Water supply and sanitary equipments and fittings	do	8
114	Water meters and parts and accessories thereof.	do	8
	<i>Non-ferous metals</i>		
115	Aluminium, aluminium alloys and all articles made of aluminium or/and aluminium alloys	do	8
116	Tin including tin sheets and tin plates	do	8
	<i>Manufacture of metals not falling under any other item in this Schedule</i>		
117	Stainless steel products	do	7
118	Pressure cooker	do	9
119	Welding rods and arc carbon	do	9
120	Trunks, iron or steel	do	8
121	All metallic products other than those specified elsewhere in this Schedule or the Second Schedule.	do	8
	<i>Machinery other than electric</i>		
122	Internal combustion engine	do	8
123	Rolling bearing, that is to say, ball or roller bearing (all kinds)	do	8
124	Agricultural machinery and implements, not falling under any other item in this Schedule, other than hand made	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
125	All varieties for tractors power tillers and bull dozers and spare parts, component parts and tyres and tubes thereof	do	10
126	Typewriters, tabulating machines, calculating machines and duplicating machines and parts and accessories thereof	do	15
127	Sewing machine and spare parts	do	6

	and accessories thereof		
128	Refrigerators, water coolers and air conditioning plants and machines and component parts thereof	do	15
129	Centrifugal pumps electrically operated or engine operated	do	9
	<i>Electrical machinery apparatus and appliances</i>		
130	All electrical goods (other than those specifically mentioned in this Schedule) instruments, apparatus, appliances and all such articles, the use of which cannot be had except with the application of electrical energy, including fan and lighting bulbs, electrical earthenwares and porcelain and all other accessories and component parts, either sold as a whole or in parts	do	10
131	Television sets and parts and accessories thereof	At the point of first sale in the State by a dealer who is liable to tax under section 5.	15
132	Telecommunication apparatus, not falling under any other item in this Schedule	do	15
133	Wireless reception instruments and apparatus, radio and transistors, not falling under item 134, radio gramophones, electrical valves, accumulators, amplifiers and loud speakers and spare parts and accessories thereof	do	15
134	Radios and transistors costing not more than Rs.150 and spare parts and accessories thereof	do	12
135	Dictaphone and similar apparatus for recording sound and spare parts thereof	do	15
136	Batteries other than dry cells	do	13

137	Dry cells	do	1
	<i>Transport equipments</i>		
138	Motor vehicles, motor vessels, motor engines, chassis of motor vehicles, trailers, motor bodies built on the chassis of motor vehicles, bodies built for motor vessels or engines and spare parts and accessories thereof	do	15
139	Motor cycles and motor cycle combinations, motor scooters, mopeds and motorettes and spare parts and accessories thereof	At the point of first sale in the State by a dealer who is liable to tax under section 5	15
140	Boat (canoes, wooden launches)	do	6
141	Machinery and transport equipments (other than those specifically mentioned in the Schedule)	do	8
142	Bicycles, tandam cycles and cycle combinations and accessories and parts thereof	do	6
	<i>Furniture</i>		
143	Upholstered furniture, sofa sets, dressing tables and furniture of all types made of timber, rattan or bamboo	do	7
144	Upholstered furniture supported on steel frames	do	12
145	Safes, almirah and furniture made of iron or steel	do	12
	<i>Clothing</i>		
146	Readymade garments	do	6
147	Hosiery goods	do	3
148	Watch strap made of leather or any other material	do	10
149	Footwear of all kinds (except leather footwear)	do	7

*Professional, scientific and controlling instruments,*

	<i>photographic and optical goods</i>		
150	Binoculars, telescopes and opera glasses	do	15
151	Photographic and other cameras and enlargers, lenses, films and plates, paper and cloth and other parts and accessories required for use therewith	At the point of first sale in the State by a dealer who is liable to tax under section 5.	15
152	Cinematographic equipments, including cameras, projectors and sound recording and reproducing equipments, lenses, films and parts and accessories required for use therewith	do	15
153	Sound transmitting equipments including telephones and loud speakers and spare parts thereof	do	15
	<i>Miscellaneous Manufactured articles</i>		
154	Clocks, timepieces and watches and parts thereof	do	12
155	Gramaphones and component parts thereof and records	do	15
156	Plastics and articles made of plastics	do	8
157	All arms including rifles, revolvers, pistols and ammunitions for the same	do	20
158	Sports goods	do	5
159	Pens, pencils and fountain pens	do	5
160	Ink, other than printing ink	do	5
161	Bullion and species	do	2
162	Jewellery of gold, silver and platinum group metals	At the point of first sale in the State by a dealer who is liable to tax under section 5.	2

*Explanation.*—Where a tax has been levied in respect of bullion and specie, the tax leviable on jewellery of gold, silver and

platinum group  
metals produced  
out of such  
bullion and  
specie shall be  
reduced by the  
amount of tax  
levied on such  
bullion and specie

163	Matches	do	15
164	Cigarette cases and lighters	do	15
165	Umbrella	do	5
166	Rain coat	do	8
167	Vacuum flask and other vacuum vessels and parts thereof	do	10
168	PV.C. pipes, alkathene pipes, polythene pipes, pipes made of synthetic materials	do	8
169	All kinds of laminated sheets and expanded polystyrene	do	8
170	Candle	do	4.”.

**THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1981 [\[1\]](#)**

**(Act 23 of 1981)**

*An Act further to amend the Kerala General Sales Tax Act, 1963*

*Preamble* .-WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purpose hereinafter appearing;

BE it enacted in the Thirty-second Year of the Republic of India as follows:-

1 . *Short title and commencement* .-(1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1981.

(2) It shall be deemed to have come into force on the 1 st day of April, 1981.

2. *Amendment of section 5*.-In section 5 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),-

(a) in subsection (1), for the words “thirty-five thousand rupees”, the words ‘fifty thousand rupees shall be substituted;

(b) in subsection (2), for the words “ten thousand rupees”, the words ‘fifteen thousand rupees’ shall be substituted.

3. *Amendment of section 5A* .-In section 5A of the principal Act,-

(a) in subsection (2), for the words “thirty-five thousand rupees” and “ten thousand rupees”, the words “fifty thousand rupees” and fifteen thousand rupees” shall respectively be substituted;

(b) in subsection (3), for the words “thirty-five thousand rupees” and “forty thousand rupees”, the words “fifty thousand rupees” and “fifty-five thousand rupees” shall respectively be substituted.

4. *Amendment of section 7*.-In section 7 of the principal Act, in subsection (1), for the words “thirty-five thousand rupees” and “forty thousand rupees”, the words “fifty thousand rupees” and ‘fifty-five thousand rupees’ shall respectively be substituted.

5. *Amendment of section 13*.-In section 13 of the principal Act,-

(a) in sub-section (1), for the words “thirty-five thousand rupees”, the words “fifty thousand rupees’ shall be substituted;

(b) in subsection (2), for the words “ten thousand rupees”, the words “fifteen thousand rupees” shall be

substituted.

6. *Amendment of section 17.*-In section 17 of the principal Act, in subsections (4) and (6), for the words “one lakh rupees”, the words “one lakh and fifty thousand rupees” shall be substituted.

7. *Amendment of section 18.*-In section 18 of the principal Act, in subsection (2A), for the words “one lakh rupees”, the words “one lakh and fifty thousand rupees” shall be substituted.

8. *Amendment of First Schedule .-* In the First Schedule to the principal Act,-

(a) in the entry in column (4) against serial number 36, for the figures “40”, the figure “50” shall be substituted;

(b) in the entry in column (2) against serial number 101, after the words “manufactured”, the words “in mill or on handloom” shall be inserted.

9. *Amendment of Third Schedule .-* In the Third Schedule to the principal Act, in the entry against serial number 3, the following shall be inserted at the end, namely:-

“except silk fabrics woven on handlooms wholly or partly with mill yarn.”.

# THE KERALA GENERAL SALES TAX (AMENDMENT)

ACT, 1983 [\[1\]](#)

(ACT 3 OF 1983)

*An Act further to amend the Kerala General Sales tax Act, 1963.*

*Preamble.* — whereas it is expedient further to amend the Kerala General Sales tax Act, 1963, for the purposes hereinafter appearing;

be it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Kerala General Sales tax (Amendment) Act, 1983.

(2) Clauses (a) and (b) of section 2 and sections 3, 4, 5, 6, 7 and 8 shall be deemed to have come into force on the 1st day of April, 1982, and the remaining provisions of this Act shall be deemed to have come into force on the 14th day of October, 1982.

2. *Amendment of section 5.*—In section 5 of the Kerala General Sales tax Act, 1963 (15 of 1963 (hereinafter referred to as the principal Act),—

(a) .in subsection (1), for the words "fifty thousand rupees", the words "seventy-five thousand rupees" shall be substituted;

(b) in sub-section (2), for the words "fifteen thousand rupees", the words "twenty-five thousand rupees" shall be substituted;

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

"(3A) Notwithstanding anything contained in sub-section (1) or subsection (2), the tax payable by a dealer in respect of any sale of the goods specified in the First Schedule, which is liable to tax at a rate higher than four per cent, by such dealer to another for use by the latter as component part, not being a component part as defined in the *Explanation* to sub-section (3), of any other goods mentioned in the said Schedule, which he intends to manufacture inside the State for sale shall be at the rate of only four per cent on the taxable turnover relating to such sale:

Provided that the provisions of this sub-section shall not apply to any sale unless the dealer selling the goods furnishes to the assessing authority in the prescribed manner a declaration duly filled in and signed by the dealer to whom the goods are sold containing the prescribed particulars in the prescribed form:

Provided further that the goods sold are capable of being used as component part, not being a component part as defined in the said *Explanation*, of any of the goods specified in the First Schedule."

(d) after sub-section (6), the following sub-section shall be inserted, namely : —

"(7) Notwithstanding anything contained in sub-section (1) or sub section (2), the tax payable by a dealer in respect of any sale of industrial raw materials or packing materials, which is liable to tax at a rate higher than four per cent, when sold to industrial units for use in the production of finished products inside the State for sale, or for packing of such finished products inside the State for sale, as the case may be, shall be at the rate of only four per cent on the taxable turnover relating to such industrial raw materials or packing materials, as the case may be :

Provided that this sub-section shall not apply where the sale of such finished products is not liable to tax either under this Act or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) or when such finished products are exported out of the territory of India :

Provided further that the provisions of this sub-section shall not apply to any sale unless the dealer selling the goods furnishes to the assessing authority in the prescribed manner a declaration duly filled in and signed by the dealer to whom the goods are sold, containing the prescribed particulars in the prescribed form."

3. *Amendment of section 5A.* —In section 5A of the principal Act,—

(a) in sub-section (2), for the words "fifty thousand rupees" and "fifteen thousand rupees", the words "seventy-five thousand rupees" and "twenty-five thousand rupees" shall respectively be substituted;

(b) in sub-section (3), for the words "fifty thousand rupees" and "fifty-five thousand rupees", the words "seventy-five thousand rupees" and "eighty thousand rupees" shall respectively be substituted.

4. *Amendment of section 7.* —In section 7 of the principal Act, for the words "fifty thousand rupees" and "fifty-five thousand rupees", the words "seventy-five thousand rupees" and "eighty thousand rupees" shall respectively be substituted.

5. *Amendment of section 13.*—In section 13 of the principal Act,—

(a) in sub-section (1), for the words "fifty thousand rupees", the words "seventy-five thousand rupees", shall be substituted ;

(b) in sub-section (2), for the words "fifteen thousand rupees", the words "twenty-five thousand rupees" shall be substituted.

6. *Amendment of section 17.*—In section 17 of the principal Act, in sub-sections (4) and (6), for the words "one lakh and fifty thousand rupees", the words "two lakhs rupees" shall be substituted;

7. *Omission of section 18.* —Section 18 of the principal Act shall be omitted.

8. *Amendment of section 34.*—In section 34 of the principal Act, the words, brackets and figures "sub-section (1), sub-section (2) or sub-section (3) of section 18", in both the places where they occur, shall be omitted

9. *Amendment of First Schedule.* —In the First Schedule to the principal Act,—

(a) in column (4) against serial number 3, for the figures "10", the figure "8" shall be substituted;

(b) in column (4) against serial number 8, for the figures "10", the figure "8" shall be substituted ;

(c) serial number 16 and the entries relating thereto shall be omitted;

(d) in column (4) against serial number 20, for the figures "10", the figure "8" shall be substituted;

(e) before serial number 37 and the entries relating thereto, the following shall be inserted, namely :—

"36A	Arrack	At the point of first sale in the State by a dealer who is liable to tax under section 5	15";
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(f) in column (4) against serial number 39, for the figures "10", the figure "8" shall be substituted;

(g) for serial number 40, and the entries relating thereto, the following shall be substituted, namely :—

"40	Synthetic rubber and its products and mixture of rubber and synthetic rubber and its products, excluding synthetic rubber foam, polyurethane foam and plastic foam and their products	At the point of first sale in the State by a dealer who is liable to tax under section 5	12
40A	Synthetic rubber foam, polyurethane foam	do.	15":

and plastic foam and their products

(h) for serial numbers 42 and 43 and the entries relating thereto, the following shall be substituted, namely :—

"42	Artificial silk yarn and synthetic polyester fibre	At the point of first sale in the State by a dealer who is liable to tax under section 5	4
43	Staple fibre yarn	do.	2";

(i) in column (4) against serial number 61, for the figure "8", the figure "6" shall be substituted;

(j) for serial number 72 and the entries relating thereto, the following shall be substituted, namely:—

"72	Paints, colours and lacquers	At the point of first sale in the State by a dealer who is liable to tax under section 5	10
72A	Varnishes, pigments, polishes, indigo, enamel, putty, bale oil, white oil, turpentine oil, thinners, emers and paint brushes	do	7";

(k) in column (4) against serial number 73, for the figure "7", the figures "10" shall be substituted ;

(l) in the entries in column (2) against serial number 84, for item (x), the following item shall be substituted, namely :—

"(x) Dicalcium Phosphate";

(m) in column (4) against serial number 95, for the figure "7", the figures "10" shall be substituted ;

(n) in column (4) against serial number 99, for the figure "6", the figure "4" shall be substituted ;

(o) in column (4), against serial number 11, 2 for the figure "5", the figures "10" shall be substituted ;

(p) in column (4) against serial number 115 for the figure "8", the figure "6" shall be substituted ;

(q) in column (4) against serial number 117, for the figure "7", the figures "10" shall be substituted ;

(r) in column (4) against serial number 119, for the figure "9", the figure "8" shall be substituted ;

(s) in column (4) against serial number 124, for the figure "8", the figure "6" shall be substituted ;

(t) before serial number 130 and the entries relating thereto, the following shall be inserted, namely:—

"129A.Grinders, mixers, hot plates, water heaters, washing machines and cooking ranges used as domestic electric appliances	At the point of first sale in the State by a dealer who is liable to tax under section 5	12";
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(u) in column (4) against serial number 136, for the figures "13", the figures "15" shall be substituted ;

(v) in column (4) against serial number 146, for the figure "6," the figure "5" shall be substituted ;

(w) in column (4) against serial number 154, for the figures "12" the figures "15" shall be substituted ;

(x) for serial number 156 and the entries relating thereto, the following shall be substituted, namely :—

"156	Plastics and articles made of plastics including plastic pipes	At the point of first sale in the State by a dealer who is liable to tax under section 5
------	--	--

(y) for the entry in column (2) against serial number 168, the following shall be substituted, namely:—

"Pipes made of synthetic materials other than plastics".

10. *Amendment of Third Schedule.*—In the Third Schedule to the principal Act,—

(a) serial number 11A and the entry relating thereto shall be omitted,

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

"17. Slates and slate pencils.

18. Tapioca and its products "

11. *Repeal and saving* —(1) The Kerala General Sales Tax (Amendment) Ordinance, 1982 (5 of 1982), is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

# THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1988 [\[1\]](#)

(Act, 6 of 1968)

*An Act further to amend the Kerala General Sales Tax Act, 1963*

*Preamble.*—WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1988.

(2) Sub-clause (ii) of clause (b) of section 3 shall be deemed to have come into force on the 1st day of July, 1987 and the remaining provisions of the Act shall be deemed to have come into force on the 19th day of February, 1988.

2. *Amendment of section 2.*—In section 2 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), in the *Explanation* to clause (xxvi), after the words "Notwithstanding anything contained in any other provision of this Act", the words "but subject to the provisions of section 8" shall be inserted.

3. *Amendment of section 5.*—In section 5 of the principal Act,—

(a) for the proviso to clause (v) of sub-section (1) of section 5, the following proviso shall be substituted, namely:—

"Provided that where there are no two points of sale in the State for any goods coming under the Fifth Schedule and the first sale is to a person other than a registered dealer, the rate specified in column (8) of that Schedule shall apply to such sales."

(b) In sub-section (2A),—

(i) for clause (i) of the proviso, the following clause shall be substituted, namely:—

“(i) on which tax is leviable on such dealer under sub-section (1) or sub-section (2), except in the case of rubber excluding synthetic rubber, tea, pepper, arecanut and dried ginger,—”.

(ii) after clause (ii), the following clause shall be inserted, namely:—

(iii) Notwithstanding anything contained in sub-section (1) of section 22, no dealer shall collect from his purchaser the turnover tax payable by him under this sub-section."

4. *Amendment of section 13.*—In sub-section (2) of section 13 of the principal Act, for the words "the First and the Second Schedules", the words "the First, Second, Fourth and Fifth Schedules" shall be substituted.

5. *Amendment of section 23.*—For the opening paragraph in subsection (3) of section 23 of the principal Act, the following shall be substituted, namely:—

"(3) If the tax or any other amount assessed or due under this Act is not paid by any dealer or other person within the time prescribed therefor in this Act or in any rule made thereunder and in other cases within, the time specified therefor in the notice of demand, or within the time allowed for its payment by the appellate or revisional authority, as the case may be, or if payment is permitted in instalments by any of the authorities empowered in this behalf, any such installment is not paid within the time specified therefor, the dealer or other person shall pay, by way of penal interest, in the manner prescribed, in addition to the amount due, a sum equal to—".

6. *Amendment of section 47.*—In sub-section (1) of section 47 of the principal Act,—

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

"(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 one hundred and maximum of rupees one lakh; and"

(ii) after clause (b), the following proviso shall be added namely :—

"Provided that the Board of Revenue may by order authorize an Officer to compound the offence under this section on payment of a reduced amount".

7. *Substitution of Fifth Schedule.*—For the "FIFTH SCHEDULE" to the principal Act, the following Schedule shall be substituted namely:—

### **THE FIFTH SCHEDULE**

**Goods in respect of which tax is leviable on two points under sub-section (1)**

**or sub-section (2) of section 5**

Sl.No.	Description of goods	First point of	Rate of tax (Per	Second point	Rate of tax (Per	Where there are no two points of	Rate of tax
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		levy	cent)	of levy	cent)	sale in the State	(Per cent)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Foamed rubber sheets, cushions and pillows and other articles of foamed rubber	At the point of first sale in the State by a dealer who is liable to tax under section 5 to a registered dealer	15	At the point of last sale in the State by a dealer who is liable to tax under section 5	2	At the point of first sale in the State by a dealer who is liable to tax under section 5 to a person other than a registered dealer	17
2	Foreign Liquor  Explanation:—Foreign Liquor means any liquor manufactured in any country other than India and brought to India	do	60	do	15	do	75
3	Laminated sheets and expanded Polystyrene of all kinds	do	15	do	2	do	17
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
4	Liquor other than foreign liquor, arrack and toddy	At the point of first sale in the State by a dealer who is liable to tax under section 5 to a registered dealer.	45	At the point of last sale in the State by a dealer who is liable to tax under section 5	15	At the point of first sale in the State by a dealer who is liable to tax under section 5 to a person other than a registered dealer	60
	<i>Explanation:—</i> "Liquor" means and includes toddy, wine, brandy, champagne, sherry, rum, gin, whisky, beer, cider, cocoa brandy, arrack and all other distilled or spirituous or fermented beverages brought into or produced or manufactured in the State						

5	Lubricating oil, grease, brake fluid, transformer oil and other quenching oils	do	10	do	1	do	11
6	Plywood, veneer  plywood and hard-boards and veneers not covered by entry 180 of the First Schedule	do	10	do	2	do	12
7	Rubber products  other than those specifically covered by the First Schedule	do	8	do	2	do	10
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
8	All kinds of suit cases, brief cases	do	10	do	1	do	11
9	Synthetic rubber products excluding those coming under entry 10 of this Schedule	do	10	do	2	do	12
10	Synthetic rubber foam Polyurethane foams and plastic foams and their products except tread rubber	do	15	do	2	do	17

8. *Repeal* (1) The Kerala General Sales Tax (Amendment) Ordinance, 1988 (10 of 1988), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

**THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1989 [\[1\]](#)**

**(ACT 11 OF 1989)**

*An Act further to amend the Kerala General Sales Tax Act, 1963.*

*Preamble* .— WHEREAS it is expedient to provide for the issue of transit passes for the transit of goods through the State, to check the evasion of sales tax;

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

1. *Short title and commencement.*— (1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1989.

(2) It shall be Deemed to have come into force on the 25 th day of November, 1988.

2. *Insertion of new section 30B* . — After section 30 A of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), the following section shall be inserted, namely: —

“30B. *Transit of goods through the State and issue of transit pass.*— (1) When a vehicle or vessel carrying goods from any place outside the State and bound for any place outside the State passes through the State, the owner or driver or person in charge of such vehicle or vessel shall obtain a transit pass in the prescribed form for such goods from the officer-in-charge of the first check post after his entry into the State and deliver it to the officer-in-charge of the last check post before his exit from the State.

(2) If the owner or driver or person in charge of such vehicle or vessel fails to deliver the transit pass for such goods referred to in sub-section (1) to the last check post, it shall be presumed that such goods which are liable to tax under this Act have been delivered within the State for sale:

Provided that where the goods carried by such vehicle or vessel are after their entry into the State, transported outside the State by any other vehicle or conveyance, the onus of proving that goods have actually moved out of the State, shall be on the owner or driver or person in charge of the vehicle or the vessel, as the case may be.

(3) Where it is presumed under sub-section (2) that the goods carried in a vehicle or vessel have been delivered within the State for sale by the owner or driver or person in charge of the vehicle or vessel, such owner or driver or person in charge of the vehicle or vessel shall be jointly or severally liable to pay tax which shall be assessed and recovered in accordance with the relevant provision of this Act, irrespective of the limit of any turnover together with an amount of penalty not exceeding twice the amount of such tax as may be assessed, after having given to the person or persons aforesaid an opportunity

of being heard by the assessing authority under whose jurisdiction the check post is situate.

(4) Where any person consigns any goods or transports any goods from another State into the State and where the particulars furnished in the declaration prescribed in clause (b) of sub-section (2) of section 29 are false or the consignee or purchaser stated therein is found to be bogus or non-existent or is not traceable or denies such purchase, it shall, unless the consignor or the owner of the vehicle or the person in charge of the vehicle proves to the satisfaction of the assessing authority that the particulars furnished in the declaration are true, be presumed that such goods which are liable to tax under this Act have been sold in the State by the consignor or the owner of the goods or the owner or driver or person in charge of the vehicle or the person in charge of the goods or all of them jointly and they shall be jointly or severally liable to pay tax on such sales which shall be assessed and recovered in the manner provided in sub-section (3).

(5) For the purpose of this section, the owner or driver or person in charge of the vehicle or vessel shall, unless he is a registered dealer under this Act, be deemed to be a registered dealer for assessment of tax under this Act."

3. *Repeal and saving.*— (1) The Kerala General Sales Tax (Second Amendment) Ordinance, 1988 (22 of 1988), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

# THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1990 [\[1\]](#)

(Act 3 of 1990)

*An Act further to amend the Kerala General Sales Tax Act, 1963.*

*Preamble.*— WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963 for the purposes hereinafter appearing;

BE it enacted in the Forty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1990.

(2) Clauses (d) and (e) of section 5 shall be deemed to have come into force on the 1st day of April, 1984 and the remaining provisions shall be deemed to have come into force on the 29th day of August, 1989.

2. *Amendment of Section 5A.*—(1) In sub-section (1) of section 5A of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),—

(a) in the opening paragraph, for the word and figure "section 5" the words, brackets and figures "sub-sections (1), (2), (3), (4) or (5) of section 5" shall be substituted;

(b) in clause (b), before the words "disposes of" the words "uses or" shall be inserted.

3. *Insertion of new section 19C.*—After section 19B of the principal Act, the following section shall be inserted, namely:—

"19C. *Protective assessment.*—Notwithstanding anything to the contrary contained in any judgement, decree, order, direction or decision of any Court, Tribunal or other Authority, where the assessing authority has reason to believe that any person is, or was carrying on business in the name of, or in association with any other person, either directly or indirectly, whether as agent, employee, manager, power of attorney holder, guarantor or in any other capacity, such person and the person in whose name the registration certificate, if any, is taken, shall jointly and severally, be liable for the payment of the taxes, penalty or other amount due under this Act which shall be assessed, levied and recovered from all or any of such person or persons as if such person or persons are dealers:

Provided that before taking action under this section, the persons concerned shall be given a reasonable opportunity of being heard."

4. *Amendment of section 29A.*—After sub-section (2) of section 29A of the principal Act, the following sub-sections shall be inserted, namely:—

"(2A) Where the owner, driver or person in charge of the vehicle or vessel carrying the goods detained under sub-section (2) is found in collusion for such carrying of goods, the vehicle or vessel shall also be detained by the officer empowered under sub-section (1) and such vehicle or vessel shall be released only on the owner, driver or person in charge of it furnishing the security provided in sub-section (2). In case of failure to furnish the security as above, the officer detaining the vehicle shall have the power to order the vehicle or vessel being taken to the nearest Police Station or to any Check Post or office of the Agricultural Income Tax and Sales Tax Department for safe custody of the goods or the vehicle or the vessel or both:

Provided that where the owner, driver or person in charge of a vehicle or vessel carrying goods is found guilty of the offence under this sub-section for a second or a subsequent time, such vehicle or vessel may be detained for a period not exceeding 30 days from the date of furnishing the security.

(2B) If such officer has reason to believe that the tax payable for the sale or purchase of the goods under transport is not paid or the dealer whose goods are transported has not paid any tax in accordance with the procedure prescribed or has at any time defaulted payment of any tax for any period, such officer may allow the transport of the goods only after realising the tax due on the turnover of the goods transported. If such dealer or driver or person in charge of the goods refuses to pay the tax aforesaid, the goods shall be detained by such officer and shall be dealt with in the manner provided in this section as if the transport of goods were an attempt to evade payment of tax due under this Act."

5. *Amendment of the First Schedule.*—In the First Schedule to the principal Act,—

(a) after serial number 57 and the entries relating thereto, the following serial number and entries shall be inserted, namely:—

"57A. Copper Sulphate	At the point of first sale in the
	State by a dealer who is liable
	to tax under
	section 5
	4";

(b) to serial number 81, the following *Explanation* shall be added, namely:—

*Explanation.*—Slotted angles when assembled form furniture or rack shall be deemed to be furniture for the purpose of this entry.";

(c) for each entry under column (3) against serial number 140 (i) to (xxi), the following entry shall respectively be substituted, namely:—

"At the point of sale in the State by any Oil Company liable to tax under section 5 except where the sale is by any Oil Company to another Oil Company and at the point of first sale in the State by a dealer who is liable to tax under section 5 when the sale is not by an Oil Company";

(d) in the entry under column (2) against serial number 155, after the words "Raw Bathis", the words "agarbathis and other scented sticks" shall be added;

(e) in the entry under column (2) against serial number 179, after the words "including chillies", the word "garlic" shall be inserted.

6. *Amendment of the Second Schedule.*—In the Second Schedule to the principal Act,—

(a) for serial number 5 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

"5. Hides and skins whether in a raw or dressed state,—

- |                                      |   |     |
|--------------------------------------|---|-----|
| (a) Purchased within the State       | At the point of last purchase in the State by a dealer who is liable to tax under section 5 | 4   |
| (b) Purchased from outside the State | At the point of first sale in the State by a dealer who is liable to tax under section 5    | 4”; |

(b) for serial number 7 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

"7. Groundnuts and groundnut seeds,—

- |                                      |   |     |
|--------------------------------------|---|-----|
| (a) Purchased within the State       | At the point of last purchase in the State by a dealer who is liable to tax under section 5 | 4   |
| (b) Purchased from outside the State | At the point of first sale in the State by a dealer who is liable to tax under section 5    | 4”. |

7. *Repeal and saving.*—(1) The Kerala General Sales Tax (Second Amendment) Ordinance, 1989 (7 of 1989) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

# THE KERALA GENERAL SALES TAX

(AMENDMENT) ACT, 1995 [\[1\]](#)

(ACT 11 OF 1995)

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.—whereas it is expedient to amend the Kerala General Sales Tax Act, 1963 for the purposes hereinafter appearing;

be it enacted in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1995.

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

2. Amendment of section 2.—In section 2 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),—

(1) after item (b) of Explanation 4 of clause (xxi), the following item shall be inserted, namely:—

"(c) for the purpose of this Act, the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract shall be deemed to have taken place in the State, if the goods are within the State at the time of such transfer, irrespective of the place where the agreement of works contract is made, whether the assent of the other party to the contract is prior or subsequent to such transfer.";

(2) to clause (xxv), the following proviso shall be added, namely:—

"Provided that the taxable turnover of a dealer in respect of transfer of property involved in the execution of works contract shall, during the period commencing on and from the 1st day of April, 1984 and ending with the 31st day of March, 1991, be arrived at after deducting the amounts mentioned in section 5C."

(3) in clause (xxvii), to Explanation IA, the following Note shall be added, namely:—

"Note.—Sub-clause (i) to Explanation IA as substituted by the Kerala Finance Act, 1987 (18 of 1987) shall be deemed to have come into force on the 1st day of April, 1984."

3. Insertion of new\_ section 5C.—After section 5B of the principal Act, the following section shall be inserted, namely:—

"5G. Deduction of certain amounts in arriving at the taxable turnover of a dealer in respect of transfer of property in the execution of works contract.— The taxable turnover of a dealer in respect of transfer of property involved in the execution of works contract shall, during the period commencing on and from the 1st day of April, 1984 and ending with the 31st day of March, 1991, be arrived at after deducting the following amounts from the total amount received or receivable by the dealer for the execution of the contract—

(a) all amounts relating to the sale of any goods involved in the execution of works contract which are specifically exempted from tax under any of the provisions of this Act;

(6) all amounts paid to the sub-contractors as consideration for execution of works contract whether wholly or partly:

Provided that no such deduction shall be allowed unless dealer claiming deduction, produces proof that the sub-contractor is a registered dealer liable to pay tax under this Act and that the turnover of such amounts is included in the return filed by such sub-contractor; and

(c) all amounts towards labour charges and other service charges such as—

(i) charges for planning and designing and the architect's fee;

(ii) charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract;

(iii) cost of consumables used;

(iv) cost of establishment of the dealer;

(v) profit earned by the dealer to the extent it is relatable to supply of labour and services:

not involving any transfer of property in goods, and actually incurred in connection with the execution of the works contract; or such amounts calculated at the rate specified in column (3) of the Table below, if they are not ascertainable from the books of accounts maintained and produced by the dealer.

#### THE TABLE

Serial Number	Type of works contract	Labour or other charges as a percentage value of the works contract
(1)	(2)	(3)
1	Electrical contracts	20

2	All structural contracts	30
3	Sanitary contracts	33.5
4	Retrading contracts	50
5	Dyeing and Textile Printing contracts	50
6	Photography and Printing contracts	30
7	Sculptural contract or contract relating to arts	70
8	Refrigeration, air conditioning or other machinery, rolling shutters, cranes, installation contracts	15
9	All other contracts	30

4. Validation.—(1) Notwithstanding any judgement, decree or order of any court, tribunal or other authority, any assessment, levy or collection of any tax on the turnover of a dealer in respect of transfer of property in the execution of works contract, during the period commencing on and from the 1st day of April, 1984 and ending with the 31st day of March, 1991 made or purporting to have been made under the principal Act before the 18th day of May, 1995, shall be deemed to be as valid and effective as if such assessment, levy or collection had been made under the principal Act as amended by this Act, and accordingly—

(a) all acts, proceedings or things done or taken by any officer or authority in connection with the assessment, levy or collection of such tax shall, for all purposes, be deemed to be, and to have always been, done or taken in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any Court, Tribunal or other authority for the refund of any such tax so collected;

(c) no court shall enforce any decree or order directing the refund of any such tax so collected; and

(d) any such tax assessed under the principal Act before the 18th day of May, 1995, but not collected before that date, shall be recovered in the manner provided under the principal Act as amended by this Act and the rules made thereunder.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any tax paid by him in excess of the amount due from him under the principal Act as amended by this Act.

5. Repeal and saving.— (1) The Kerala General Sales Tax (Amendment) Ordinance (11 of 1995), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

**THE KERALA GENERAL SALES TAX (AMENDMENT) ACT,  
1999<sup>[1]</sup>**

**(ACT 10 OF 1999)**

*An Act further to amend the Kerala General Sales Tax Act, 1963.*

*Preamble.*-- WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963 for the purposes hereinafter appearing;

BE it enacted in the Fiftieth Year of the Republic of India as follows:-

1. *Short title and commencement.*- (1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1999.

(2) Section 3 of this Act shall be deemed to have come into force on the 1st day of April, 1998 and the remaining provisions shall be deemed to have come into force on the 29th day of September, 1998.

2. *Amendment of section 17.*--In section 17 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),--

(a) in the second proviso to sub-section (6), for the word, figures and letters the "30th September,1998", the words, figures and letters "the 31st day of March, 1999" shall be substituted;

(b) in the proviso to sub-section (8), for the words, figures and letters " the 30th day of September, 1998", the words, figures and letters "the 31st day of March, 1999" shall be substituted.

3. *Amendment of the First Schedule.*--In the First Schedule to the principal Act, in the entries in column (2) against Serial No. 87,--

(a) for the word "beverages", the words "Beverages, Horlicks, Boost, Bournvita, Complian" shall be substituted;

(b) for the existing *Explanation*, the following *Explanation* shall be substituted, namely:-

*"Explanation.*- Powders, tablets, granules and concentrates used for the preparation of non-alcoholic drinks or beverages shall, whether or not they are bottled or canned, be liable to tax under this entry."

4. *Repeal and saving.*- (1) The Kerala General Sales Tax (Amendment) Ordinance, 1998 (13 of 1998), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

## ACT 4 OF 2002

### THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 2002 [\[1\]](#)

*An Act further to amend the Kerala General Sales Tax Act, 1963.*

*Preamble.*-WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963 (15 of 1963) for the purposes hereinafter appearing;

BE it enacted in the Fifty-third year of the Republic India as follows:-

1. *Short title and commencement.*- (1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 2002.

(2) Clauses (a), (b), (c) and (e) of section 3 and section 4 of this Act shall be deemed to have come into force on the 31<sup>st</sup> day of December, 2001 and section 2, clause (d) of section 3 and section 5 of this Act shall be deemed to have come into force on the 3<sup>rd</sup> day of April, 2002.

2. *Amendment of section 5D.*- In the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), in the proviso to section 5D, in clause (a) for the words and figures “serial No.12 of the Fifth Schedule”, the words and figures “serial No.108 of the First Schedule” shall be substituted.

3. *Amendment of the First Schedule.*- In the First Schedule to the principal Act,-

(a) after serial numbers 49 and entries against it, the following serial number and entries shall, respectively, be inserted, namely:-

“49 A. Cutlery At the point of first sale in the State 12”;  
by a dealer who is liable to tax under  
section 5

(b) after serial number 56 and the entries against it, the following serial number and entries shall, respectively, be inserted, namely:-

“56 A Computer Software At the point of first sale in the 4”;  
State by a dealer who is liable  
to tax under section 5”

(c) in the entries against item (i) of serial number 106, in column (4) for the figure “4”, the figure “8” shall be substituted;

(d) after serial number 107 and the entries against it, the following serial number and entries shall, respectively, be inserted, namely:-

“108 Petroleum products, namely:-

(i) High Speed Diesel Oil At the point of sale in the 40  
State by any Oil Company liable to  
tax under section 5 except where

the sale is by an Oil Company to another Oil Company and at the point of first sale in the State by a dealer who is liable to tax under section 5 when the sale is not by an Oil Company

(ii)	Kerosene	do	18
(iii)	Motor spirit including Light Diesel Oil (LDO) and excluding petrol, aviation turbine fuel and high speed diesel oil	do	50
(iv)	Naphtha	do	40
(v)	Petrol other than Naphtha	do	44
(vi)	Other Petroleum Products not elsewhere mentioned in this Schedule or in the Second Schedule	do	40
(vii)	Aviation Turbine Fuel including Aviation Gasoline	do	50
(viii)	Liquified Petroleum Gas	At the point of first sale in the State by a dealer who is liable to tax under section 5.	22
(ix)	Lubricating oil, grease, brakefluid, transformer oil and other quenching oils.	do	33

*Explanation:-* For the purpose of serial Number 108 (i) to (ix) above, “Oil Company” means the Cochin Refineries Ltd., Indian Oil Corporation Ltd., Bharat Petroleum Corporation Ltd., Hindustan Petroleum Corporation Ltd., Indo Burma Petroleum Company Ltd., and includes such other company as the Government may, by notification in the Gazette specify in this behalf”.

(e) for serial number 140 and the entries against it, the following serial number an entries shall, respectively, be substituted, namely:-

“140	(i)	Stainless steel sheets not falling under the Second Schedule.	At the point of first sale in the State by a dealer who is Liable to tax under section 5.	8
	(ii)	Articles of stainless steel not falling under the Second Schedule	At the point of first sale in the State by a dealer who is liable to tax under section 5	12”.

4. *Amendment of the Third Schedule.-* In the Third Schedule to the principal Act, serial number 12A and the entry against it shall be omitted.

5. *Amendment of the Fifth Schedule.-* In the Fifth Schedule to the Principal Act, serial number 12 and the entries against it and the Explanation thereunder shall be omitted.

6. *Repeat and saving.-* (1) The Kerala General Sales Tax (Amendment) Ordinance, 2002 (2 of 2002) and the Kerala General Sales Tax (Second Amendment) Ordinance, 2002 (4 of 2002) are hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act as amended by this Act.

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1 Received the assent of the Governor on 08-07-2002 and published in the Kerala Gazette Extraordinary No.986 dated 09-07-2002.

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## ACT 3 OF 2003

### THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 2003.[\[1\]](#)

*An Act further to amend the Kerala General Sales Tax Act, 1963.*

*Preamble.-* WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963 for the purpose hereinafter appearing;

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

1. *Short title and commencement.-* (1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 2003.

(2) It shall be deemed to have come into force on the 26th day of October, 2002.

2. *Amendment of section 17.-* In the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), in section 17, for sub-section (4) and the provisos thereunder, the following sub-section and provisos shall be substituted, namely:-

"(4) Notwithstanding anything to the contrary contained in sub-sections (3) and (4A), the assessing authority may accept the return for any year, the assessment relating to which has not been completed along with the statements prescribed, which are in accordance with the provisions of the Act and the Rules made thereunder, submitted by a dealer, having dealings in goods coming under the Third Schedule to the Act, irrespective of any limit in turnover, or by a dealer whose total turnover specified in the return submitted by him for the year to which the assessment relates does not exceed rupees fifteen lakhs or by a dealer having dealings only at non-taxable points of goods coming under the First, Second or Fifth Schedule and whose total turnover specified in the return does not exceed rupees forty lakhs or by a dealer the tax payable by whom for the said year does not exceed rupees five thousand and assess the dealer on the basis of such return:

Provided that every year out of the assessments relating to the preceding year to be completed under this sub-section, the Deputy Commissioner may select twenty per cent by following such procedure as may be specified by the Commissioner, for detailed scrutiny of the accounts and other records and if the dealer is found to have not accounted any purchases or sales or otherwise attempted to evade payment of tax, the assessment of the dealer for the previous five years may be re-opened and escaped turnover shall be assessed or levy of tax be made after following the procedure prescribed in sub-section (3) and the limitation prescribed under any of the provisions of the Act shall not apply to such cases:

Provided further that where the return filed by any dealer falling under any of the categories referred to in this sub-section is not accompanied by any statement required by this Act or the rules made thereunder, in support of any claim or exemption from or

reduction in the rate of tax, the assessing authority shall, after due notice to the dealer, complete the assessment on the basis of the turnover conceded in the return, disallowing the claim for such exemption or reduction to the extent to which it is not proved:

Provided also that where any evasion of tax is detected against any dealer whose assessments have been completed under this sub-section, the dealer shall cease to be eligible for assessment under this sub-section for any subsequent period."

3. *Repeal and saving.*- (1) The Kerala General Sales Tax (Amendment) Ordinance, 2002 (9 of 2002) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the provisions of the principal Act as amended by this Act.

## ACT 7 OF 2003

### THE KERALA GENERAL SALES TAX (THIRD AMENDMENT) ACT, 2003 [\[1\]](#)

*An Act further to amend the Kerala General Sales Tax Act, 1963.*

*Preamble.*- WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963 for the purpose hereinafter appearing;

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

1. *Short title and commencement.*- (1) This Act may be called the Kerala General Sales Tax (Third Amendment) Act, 2003.

(2) It shall come into force on the 1<sup>st</sup> day of July,2003.

2. *Amendment of section 5D.*- In the Kerala General Sales Tax Act, 1963 (15 of 1963), in section 5D, the second proviso, shall be omitted.

3. *Validation.*- Notwithstanding anything contained in the Kerala General Sales Tax Act, 1963, if any registered dealer has collected any sum purporting to be additional sales tax under section 5D during the period from the 1<sup>st</sup> day of April, 2003 to the date of coming into force of the Kerala General Sales Tax (Third Amendment) Act,2003, the amount so collected shall be deemed to have been validly collected under the provisions of the Kerala General Sales Tax Act, 1963, as amended by this Act and accordingly the dealer shall be liable to remit the amount to the Government on or before the 31<sup>st</sup> day of July,2003, by declaring it in the monthly return in which case the penal provision of the said Act shall not apply.

## ACT 11 OF 2003

### THE KERALA GENERAL SALES TAX (SECOND AMENDMENT) ACT, 2003

[\[1\]](#)

*An Act further to amend the Kerala General Sales Tax Act, 1963.*

*Preamble.*--WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

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

1. *Short title and commencement.*--(1) This Act may be called the Kerala General Sales Tax (Second Amendment) Act, 2003.

(2) Sections 2, 5 and 6 of this Act shall be deemed to have come into force on the 28th day of May, 2002, section 3 of this Act shall be deemed to have come into force on the 5th day of August, 2002 and section 4 of this Act shall be deemed to have come into force on the 29th day of July, 1996 and the remaining provisions shall be deemed to have come into force on the 24th day of April, 2003.

2. *Amendment of section 2.*--In section 2 of the Kerala General Sales Tax Act, 1963 (15 of 1963)(hereinafter referred to as the principal Act),--

(1) after clause (XVA), the following clause shall be inserted, namely:--

"(XVB) "notified goods" means, coffee, rubber, cardamom, ginger, pepper, arecanut, cashewnut, iron and steel and any other goods notified by the Government;"

(2) after clause (xxiia), the following clause shall be inserted, namely:--

"(xxiib) "smuggling" means transportation of goods without proper documents as specified in sub-section (1) of section 30E of the Act;"

3. *Amendment of section 7.*--In section 7 of the principal Act, after sub-section (7B), the following sub-section shall be inserted, namely:--

"(7C) Every awarder shall obtain from the contractor or assessee who is liable to tax under clause (iv) of sub-section (1) of section 5 and opted for payment of tax under sub-section (7) or (7A) of section 7 of the Act, a certificate issued by the assessing authority with regard to the tax liability excluding the turnover in respect of inter-state sale and import and shall deduct the tax due as per the said certificate at every time including advance payment and remit it to the Government on or before the fifth day of the succeeding month from the date of such deduction in the prescribed manner."

4. *Amendment of section 22.*- In section 22 of the principal Act, in sub-section (1), after the words "pay over the same" and before the word "Government", the following words shall be inserted, namely :-

"after giving set off to the entry tax, if any , already paid."

5. *Insertion of new sections 30E and 30F.*-In the principal Act, in sub-section (1), after the words "pay over the same" and before the word "Government", the following words shall be inserted , namely:-

"30E. *Confiscation by authorised officers of notified goods, vessel or vehicle in case of smuggling .-* (1) Notwithstanding anything contained in this Act, the owner or other person in charge of a vehicle or vessel while transporting into or out of the State, coffee, rubber, cardamom, ginger, pepper, arecanut, cashewnut, iron and steel and any other goods notified by the Government, the value of which exceeds rupees two thousand and five hundred or such amount as notified by the Government from time to time, shall carry with him in addition to the documents prescribed under section 29 of the Act, a permit issued by the officer empowered in this behalf or the assessing authority, as the case may be, in the prescribed form.

*Note*:-If the transport of notified goods is not accompanied by the documents

specified in sub-section (1) above, it shall be deemed to be smuggling of the notified goods for the purposes of the Act.

(2) Any officer authorised by the Government in this behalf shall have the power to intercept and search the vehicle or vessel or any conveyance referred to in sub-section (1), at any place within the State for the purpose of enabling such officer to verify whether any notified goods are being transported in contravention of sub-section (1).

(3) If on verification, such officer has reason to suspect that the notified goods are being transported in contravention of the provisions of sub-section (1), he may without any unreasonable delay, produce the goods and the vehicle before such officer authorised by the Government by notification in the Gazette, not below the rank of an Inspecting Assistant Commissioner.

(4) Where the authorised officer is satisfied that the driver or other person in charge of the vehicle or vessel transported the notified goods in contravention of sub-section (1), or the documents produced are false or reasonably suspected to be false in respect of the particulars furnished therein, the authorised officer shall have the power to seize and detain the notified goods along with vehicle or vessel:

Provided that before taking action of seizure and detention, the authorised officer shall give the person in charge of the notified goods and the owner of the notified goods,

if ascertainable, and to the owner of the vehicle or vessel a notice in writing informing him the reason for the seizure and detention and an opportunity of being heard:

Provided further that the authorised officer may release the notified goods and the vehicle or vessel seized and detained, if the owner or the person in charge of the notified goods or owner or person in charge of the vehicle or vessel files an option to pay in lieu of seizure and detention, a penalty equal to thrice the amount of tax due at the rate applicable to the goods liable to seizure and detention and twice the amount of tax due or an amount of rupees fifty thousand whichever is higher for the release of the vehicle or vessel in lieu of detention:

Provided also that if the owner of the vehicle or vessel produces the permit prescribed in sub-section (1) and the owner of the notified goods proves the *bonafides* of the transport of goods within seven days of the seizure and detention, the authorised officer shall release the goods and the vehicle.

(5) Notwithstanding anything contained in the foregoing provisions, if the owner or person in charge of the notified goods or the owner or person in charge of the vehicle fails to prove the genuineness of the transport of the goods or to remit the penalty as specified in the second proviso to sub-section (4) within 30 days from the date of seizure and detention of goods and the authorised officer has reasons to believe that the owner or the persons in charge of the vehicle or vessel has transported the notified goods to evade payment of tax with the knowledge or connivance of the owner of the goods, the authorised officer may confiscate the vehicle or vessel along with the notified goods.

(6) No order confiscating any vehicle or vessel shall be made under sub-section (5), if the owner or the person in charge of the vehicle or vessel proves to the satisfaction of the authorised officer that it was used for carrying the notified goods without the knowledge or connivance of the owner himself, his agent, if any, or the person in charge of such vehicle or vessel and that each of them has taken all reasonable and necessary precautions against such use:

Provided that the authorised officer shall serve notice to the owner of the vehicle or vessel or the person in charge of the vehicle or vessel or the owner of the notified goods, if ascertainable, intimating the reason for the confiscation of the vehicle or vessel and an opportunity of being heard. The authorised officer shall also afford an opportunity to pay a penalty equal to thrice the amount of tax attempted to be evaded by the owner of the goods and rupees one lakh by the owner or person in charge of the vehicle or vessel in lieu of confiscation of vehicle. If the owner of the notified goods is not ascertainable or not willing to remit the penalty specified, the owner of the vehicle or vessel or the person in charge of the vehicle or vessel shall pay thrice the amount of tax sought to be evaded and an amount of rupees one lakh in lieu of confiscation of the notified goods and vehicle or vessel.

(7) The permit referred to in this section shall be obtained either from the officer empowered to in this behalf in the border checkpoint or from the assessing authority, as the case may be, for the transport of notified goods into or out of the State.

(8) Any person aggrieved by an order under sub-section (6) may, within thirty days from the date of communication to him of such order, file an application for revision, in such manner and in such form, as may be prescribed and accompanied by a fee of rupees five hundred before the Deputy Commissioner and the Deputy Commissioner may pass such orders thereon as he think fit:

Provided the Deputy 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 revision within the said period.

(9) Any person aggrieved by an order under sub-section (8) may within thirty days from the date of communication to him of such order, file a revision in such manner and in such form as may be prescribed and accompanied by a fee of rupees five hundred before the Commissioner and the decision of the Commissioner shall be final:

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.

(10) Where an order of confiscation under this section has become final in respect of any goods, vehicle or vessel, such goods, vehicle or vessel, as the case may be, shall vest in the Government free from all encumbrances.

(11) the award of confiscation under this section shall not prevent the infliction of any punishment to which the person affected thereby is liable under the Act.

30F. *Procedure as to perishable goods seized under section 30E.*--(1) Notwithstanding anything contained in section 30E, the authorised officer may direct the sale of any goods seized under that section which is subject to speedy and natural decay and remit the sale proceeds into the Government Treasury.

(2) The authorised officer may deal with the proceeds of the sale of goods under sub-section (1) in the same manner as he might have dealt with the goods, if it had not been sold.

6. *Amendment of section 31.*--In section 31 of the principal Act, after clause (ii), the following clause shall be inserted, namely:--

"(iii) Any person who undertakes to transport or deliver any consignment of notified goods in any vehicle or vessel or any other conveyance exceeding the value of rupees two thousand and five hundred or such amount as notified by the Government

from time to time, shall have a permit obtained from the authority as prescribed in subsection (7) of section 30E."

7. *Repeal and savings.*--(1) The Kerala General Sales Tax (Amendment) Ordinance, 2003 (4 of 2003) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or take under the principal Act as amended by this Act.



# കേരള ഗസറ്റ് KERALA GAZETTE

## അസാധാരണം EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്  
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30th Thulam 1197

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GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 7092/Leg.A2/2020/Law.

Dated, Thiruvananthapuram

14th November, 2021

29th Thulam, 1197

23rd Karthika, 1943.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 13<sup>th</sup> day of November, 2021.

By order of the Governor,

V. HARI NAIR,  
Law Secretary.



**ACT 38 OF 2021****THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 2021**

*An Act further to amend the Kerala General Sales Tax Act, 1963.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala General Sales Tax Act, 1963 (15 of 1963) for the purposes hereinafter appearing;

BE it enacted in the Seventy-second Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 2021.

(2) It shall be deemed to have come into force on the 16th day of May, 2020.

2. *Amendment of the Schedule.*—In the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), in the SCHEDULE, in serial number 2, under the heading 'Foreign Liquor', for the entries “27, 80, 102, 72, 212, 202” against sub-entries (i), (ii), (iii), (iv) and sub-items (a) and (b) of sub-entry (v), the entries “37, 115, 112, 82, 247, 237” shall, respectively, be substituted.

3. *Repeal and saving.*—(1) The Kerala General Sales Tax (Amendment) Ordinance, 2021 (105 of 2021) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

