

Fourteenth Kerala Legislative Assembly

Bill No. 29

**THE KERALA MOTOR VEHICLES TAXATION
(VALIDATION) BILL, 2016**

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[Translation in English of the “2016-ലെ കേരള മോട്ടോർ വാഹന നികുതി ചുമത്തൽ (സാധൂകരണം) ബിൽ” published under the authority of the Governor.]

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to validate all acts, proceedings or things done or taken by the Government or by any officer of the Government or any authority under the Government in connection with the levy and collection of motor vehicles tax on and from the 1st day of April, 2007 to the 23rd day of July, 2014.

Preamble.—WHEREAS, it is necessary to validate all acts, proceedings or things done or taken by the Government or by any officer of the Government or any authority under the Government in connection with the levy and collection of motor vehicles tax on and from the 1st day of April, 2007 to the 23rd day of July, 2014;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Motor Vehicles Taxation (Validation) Act, 2016.

(2) It shall come into force at once.

2. *Validation of levy, collection, etc. of taxes on motor vehicles.*—Notwithstanding anything contained in the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976) or in any other law for the time being in force or in any judgment, decree or order of any court, all taxes assessed, levied or collected on motor vehicles, or purporting to have been assessed, levied or collected in

pursuance of the provisions of the said Act, on and from the 1st day of April, 2007 and to the 23rd day of July, 2014, shall for all purposes be deemed to be, and to have always been, validly assessed, levied or collected, and accordingly,—

(a) all acts, proceedings or things done or taken by the Government or by any officer of the Government or any authority under the Government in connection with the assessment, levy or collection of such taxes shall, for all purposes, be deemed to be, and to have always been, done or taken in accordance with law as if such tax were assessed, levied or collected under the said Act as amended by clause (b) of sub-section (1) of section 7 of the Kerala Finance Act, 2014 (29 of 2014);

(b) no suit or other proceeding shall be instituted, maintained or continued in any court against the Government or any person or authority whatsoever for the refund of any tax so paid; and

(c) no court shall enforce any decree or order directing the refund of any tax so paid.

STATEMENT OF OBJECTS AND REASONS

In *Fathima Shirin Vs. Joint Transport Officer, Kayamkulam* [2013(3) KLT 945], the Hon'ble High Court of Kerala has held that the purchase value of a vehicle as defined in clause (e) of section 2 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976) cannot be determined by adding with its price the Value Added Tax, customs duty and other charges. From the 1st day of April, 2007, the purchase value of the vehicles for the purpose of levying vehicle tax was assessed by adding the Value Added Tax, cess and customs duty. Many cases were pending before the Hon'ble High Court of Kerala seeking refund of the amount of vehicle tax to the petitioners concerned which is already collected in this manner after assessing the purchase value of the vehicles. If such amount is to be refunded to the petitioners concerned based on the said judgment of the court, it will cause huge financial liability to the Government. In order to overcome this, though the definition of the term "purchase value" in clause (e) of section 2 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976) was amended by incorporating the Value Added Tax, Cess and Customs/Excise duty by the Kerala Finance Act, 2014 (29 of 2014), giving retrospective effect from the 1st day of April, 2007, the acts of determining the purchase value of the vehicles in the above manner and

assessing, levying and collecting vehicle tax from the said date to the 23rd day of July, 2014, the date of publication of the Act in the Gazette, have not been validated. Therefore, the Government consider it necessary to enact a law to validate the assessment, levy and collection of vehicle tax and all other proceedings taken during the said period in this regard.

2. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

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

A. K. SASEENDRAN.