

**Fifteenth Kerala legislative Assembly**

**Bill No. 2**

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**THE KERALA FINANCE BILL, 2021**

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**Fifteenth Kerala Legislative Assembly**

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A

*BILL*

to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2021-2022.

*Preamble.*—WHEREAS, it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2021-2022.

BE it enacted in the Seventy-second Year of Republic of India as follows;—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Finance Act, 2021.

(2) Save as otherwise provided in this Act, section 8 shall come into force on such date as the Government may, by notification in the official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this section and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming in to force of that provision.

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

(1) in sub-section (1), —

(a) in clause (i), for the words “fifty per cent”, the words “seventy per cent” shall be substituted;

(b) in clause (ii), for the words “forty per cent”, the words “sixty per cent” shall be substituted;

(2) in sub-section (4), for the words “an assessee”, the words “a year” shall be substituted;

(3) in sub-section (5),—

(a) for the words and figures “30th November, 2020”, occurring at both the places, the words and figures “31st August, 2021” shall be substituted;

(b) for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(4) in sub-section (7), for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(5) after sub-section (12), the following sub-section shall be inserted, namely:—

“(12A) Where any amount has been paid in part under this section during the year 2020-21, the amount so paid shall be appropriated towards the earliest arrear, and the balance amount, if any, shall be appropriated towards the arrears of subsequent years. In the case where such amount is to be given credit towards the arrears opted to be settled under this section, the amount shall be given credit as surcharge before reckoning the arrears to be settled under sub-section (6).”

*Explanation:*—For the purpose of this section, “earliest arrear” means the outstanding dues related to the oldest year among the arrears pending against an assessee.”

3. *Amendment of Act 10 of 1960.*—In the Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960), in section 76, to sub-section (1) the following proviso shall be inserted, namely:—

“ Provided that in the case of appeals under the Kerala State Goods and Services Tax Act, 2017 (20 of 2017) the maximum limit of additional court fee leviable shall not exceed rupees twenty thousand”.

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

(1) in section 7, in the proviso, after the figures and symbol “2014-15”, the word, figures and symbol “and 2015-16” shall be inserted;

(2) in sub-section (1) of section 7A,—

(i) in clause (i), after the figures and symbol “2014-15”, the word, figures and symbol “and 2015-16” shall be inserted;

(ii) in clause (iii),—

(a) for the words and figures “31st March, 2020” occurring at both the places, the words and figures “31st December, 2020” shall be substituted;

(b) in sub-clause (a), for the words and figures “30th November, 2020”, the words and figures “30th June, 2021”, shall be substituted;

(c) in sub-clause (d), for the words and figures “31st March, 2021”, the words and figures “31st July, 2021”, shall be substituted.

(3) in section 23B,—

(1) in sub-section (1),—

(a) in clause (i),—

(i) in sub-clause (a), for the words “fifty per cent”, the words “seventy per cent”, shall be substituted;

(ii) in sub-clause (b), for the words “forty per cent”, the words “sixty per cent” shall be substituted;

(b) in clause (ii), for the words and figures “31st March, 2020”, the words and figures “31st March, 2021”, shall be substituted;

(2) in sub-section (4) for the words “an assessee” the words “a year” shall be substituted;

(3) in sub-section (5),—

(a) for the words and figures “30th November, 2020”, occurring at both the places, the words and figures “31st August, 2021”, shall be substituted;

(b) for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(4) in sub-section (7), for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(5) after sub-section (11), the following sub-section shall be inserted, namely:—

“(11A) Where any amount has been paid in part under this section during the year 2020-21, the amount so paid shall be appropriated towards the earliest arrear, and the balance amount, if any, shall be appropriated towards the arrears of subsequent years. In the case where such amount is to be given credit towards the arrears opted to be settled under this section, the amount shall be given credit as tax before reckoning the arrears to be settled under sub-section (6).

*Explanation:*—For the purpose of this section, “earliest arrear” means the outstanding dues related to the oldest year among the arrears pending against the assessee.”

5. *Amendment of Act 7 of 1975.*—In the Kerala Building Tax Act, 1975 (7 of 1975), in section 5, after sub-section (1) the following sub-section shall be inserted, namely:—

“(1A) in the case of green building as defined in clause (xviii) of section 2 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and clause (18a) of section 2 of the Kerala Municipality Act, 1994 (20 of 1994) the building tax shall be levied at the rate of fifty per cent of the rate of building tax as specified in Schedule 1”.

6. *Amendment of Act 15 of 1991.*—In the Kerala Agricultural Income Tax Act, 1991 (15 of 1991), in section 37C,—

(1) in sub-section (1), —

(a) in clause (i), for the words “fifty per cent”, the words “seventy per cent”, shall be substituted;

(b) in clause (ii), for the words “forty per cent”, the words “sixty per cent”, shall be substituted;

(2) in sub-section (4), for the words “an assessee” the words “a year” shall be substituted;

(3) in sub-section (5), —

(a) for the words and figures “30th November, 2020”, occurring at both the places, the words and figures “31st August, 2021”, shall be substituted;

(b) for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(4) in sub-section (7), for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(5) after sub-section (12), the following sub-section shall be inserted, namely:—

“(12A) Where any amount has been paid in part under this section during the year 2020-21, the amount so paid shall be appropriated towards the earliest arrear, and the balance amount, if any, shall be appropriated towards the arrears of subsequent years. In the case where such amount is to be given credit towards the arrears opted to be settled under this section, the amount shall be given credit as tax before reckoning the arrears to be settled under sub-section (6).

*Explanation:*—For the purpose of this section, “earliest arrear” means the outstanding dues related to the oldest year among the arrears pending against the assessee.”.

**7. Amendment of Act 30 of 2004.**—In the Kerala Value Added Tax Act, 2003 (30 of 2004), in the SCHEDULES, in the third Schedule, after serial number 98A and the entries against it in columns (2) and (3), the following serial numbers and entries shall, respectively, be inserted, namely:—

“98B	Liquified Natural gas	2711.11.00
98C	Natural gas in gaseous state	2711. 21. 00”.

**8. Amendment of Act 20 of 2017.**—In the Kerala State Goods And Services Tax Act, 2017 (20 of 2017);—

(1) in section 7, in sub-section (1), after clause (a), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2017, namely:—

“(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

*Explanation*:—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions *inter se* shall be deemed to take place from one such person to another;”.

(2) in section 16, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

“(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;”.

(3) in section 35, sub-section (5) shall be omitted;

(4) for section 44, the following section shall be substituted, namely:—

“44. *Annual return*.—Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self- certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed :

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor - General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force;”.



(5) in section 50, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.”.

(6) in section 74, in Explanation 1, in clause (ii), for the words and figures “sections 122, 125, 129 and 130”, the words and figures “sections 122 and 125” shall be substituted;

(7) in section 75, in sub-section (12), the following Explanation shall be inserted, namely:—

*‘Explanation:—For the purposes of this sub-section, the expression “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.’.*

(8) In section 83, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed.”;

(9) in section 107, in sub-section (6), the following proviso shall be inserted, namely:—

“Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent of the penalty has been paid by the appellant.”;

(10) in section 129,—

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

“(a) on payment of penalty equal to two hundred per cent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

(b) on payment of penalty equal to fifty per cent, of the value of the goods or two hundred per cent of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;”;

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

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

“(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).”;

(iv) in sub-section (4), for the words “No tax, interest or penalty”, the words “No penalty” shall be substituted;

(v) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):

Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:

Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.”

(11) in section 130,—

(a) in sub-section (1), for the words “Notwithstanding anything contained in this Act, if ”, the word “Where” shall be substituted;

(b) in sub-section (2), in the second proviso, for the words, brackets and figures “amount of penalty leviable under sub-section (1) of section 129”, the words “penalty equal to hundred per cent of the tax payable on such goods” shall be substituted;

(c) sub-section (3) shall be omitted.

(12) for section 151, the following section shall be substituted, namely:—

“151. Power to call for information.—The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.”

(13) in section 152,—

(a) in sub-section (1),—

(i) the words “of any individual return or part thereof” shall be omitted;

(ii) after the words “any proceedings under this Act”, the words “without giving an opportunity of being heard to the person concerned” shall be inserted;

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

(14) in Schedule II, paragraph 7 shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

9. *Amendment of Act 5 of 2019.*—In the Kerala Finance Act, 2019 (5 of 2019), in section 12,—

(1) in sub-section (1),—

(a) in clause (i), for the words “fifty per cent”, the words “seventy per cent” shall be substituted;

(b) in clause (ii), for the words “forty per cent”, the words “sixty per cent” shall be substituted;

(2) in sub-section (4) for the words “an assessee” the words “a year” shall be substituted;

(3) in sub-section (5),—

(a) for the words and figures “30th November, 2020”, occurring at both the places, the words and figures “31st August, 2021”, shall be substituted;

(b) for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted.

(4) in sub-section (7), for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted.

(5) after sub-section (12), the following sub-section shall be inserted, namely:—

“(12A) Where any amount has been paid in part under this section during the year 2020-21, the amount so paid shall be appropriated towards the earliest arrear, and the balance amount, if any, shall be appropriated towards the arrears of subsequent years. In the case where such amount is to be given credit towards the arrears opted to be settled under this section, the amount shall be given credit as tax before reckoning the arrears to be settled under sub-section (6).

*Explanation:*—For the purpose of this section, “earliest arrears” means the outstanding dues related to the oldest year among the arrears pending against the assessee.”

10. *Amendment of Act 7 of 2020.*—In the Kerala Finance Act, 2020 (7 of 2020), in section 10,—

(1) in sub-section (1),—

(a) in clause (i), for the words “fifty per cent”, the words “seventy per cent” shall be substituted;

(b) in clause (ii), for the words “forty per cent”, the words “sixty per cent” shall be substituted.

(2) in sub-section (4) for the words “an assessee” the words “a year” shall be substituted;

(3) in sub-section (5),—

(a) for the words and figures “30th November, 2020”, occurring at both the places, the words and figures “31st August, 2021”, shall be substituted;

(b) for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(4) in sub-section (7), for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(5) after sub-section (12), the following sub-section shall be inserted, namely,—

“(12A) Where any amount have been partially paid under this section during the year 2020-21, the amount so paid shall be appropriated towards the earliest arrear, and the balance amount, if any, shall be appropriated towards the arrears of subsequent years. In the case where such amount is to be given credit towards the arrears opted to be settled under this section, the amount shall be given credit as tax before reckoning the arrears to be settled under sub-section (6).

*Explanation:*—For the purpose of this section, “earliest arrears” means the outstanding dues related to the oldest year among the arrears pending against the assessee.”

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

It is hereby declared that it is expedient in the public interest that all the provisions of this Bill except the provisions of clause 8 shall have effect on and from the date of introduction of the Bill in the Kerala Legislative Assembly under the Kerala Provisional Collection of Revenues Act, 1985 (10 of 1985).

**STATEMENT OF OBJECTS AND REASONS**

The Bill seeks to amend the following enactments to give effect to the financial proposals of the Government of Kerala for the financial year 2021-22 as announced in paragraphs 113, 114 and 115 of the revised Budget Speech 2021-22, namely:—

1. The Kerala Surcharge on Taxes Act, 1957 (11 of 1957);
2. The Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960);
3. The Kerala General Sales Tax Act, 1963 (15 of 1963);
4. The Kerala Building Tax Act, 1975 (7 of 1975);
5. The Kerala Agricultural Income Tax Act, 1991 (15 of 1991);
6. The Kerala Value Added Tax Act, 2003 (30 of 2004);
7. The Kerala State Goods and Services Tax Act, 2017 (20 of 2017);
8. The Kerala Finance Act, 2019 (5 of 2019);
9. The Kerala Finance Act, 2020 (7 of 2020).

**FINANCIAL MEMORANDUM**

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

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 44 of the Kerala State Goods and Services Tax Act, 2017 proposed to be substituted by sub-clause (4) of clause 8 of the Bill seeks to empower the Government to prescribe the time within which and the form and manner in which the annual return, as specified therein, with the audited financial statement for every financial year shall be submitted electronically by a registered person other than an input Service Distributor a person paying tax under section 51 or 52 casual taxable person and a non-resident taxable person.

2. Sub-section (1) of section 83 of the said Act proposed to be substituted by sub-clause (8) of clause 8 of the Bill seeks to empower the Government to prescribe the manner in which any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122 may be attached provisionally by the Commissioner.

3. Sub-section (6) of section 129 of the said Act proposed to be substituted by item (v) of sub-clause (10) of Clause 8 of the Bill seeks to empower the Government to prescribe the manner in which and the time within which the goods or conveyance detained or seized, as specified therein, shall be liable to be sold or disposed of otherwise.

4. Section 151 of the said Act proposed to be substituted by sub-clause (12) of clause 8 of the Bill seeks to empower the Commissioner or an officer authorised by him to specify time, form and the manner of furnishing information relating to any matter dealt with in connection with this Act by an order.

5. The matters in respect of which rules may be made or notification may be issued are either administrative in nature or matters of procedure and are of routine in nature. Further, the rules, after they are made, are subject to the scrutiny of the Legislative Assembly. The delegation of legislative powers is, thus, of a normal character.

K. N. BALAGOPAL

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

(11 OF 1957)

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"3A. *Reduction of arrears in certain cases.*—(1) Notwithstanding anything contained in this Act or rules made thereunder or in any judgment, decree or order of any court, tribunal or appellate authority, any assessee who is in arrears of surcharge or any other amount due under this Act relating to the period up to and including 30<sup>th</sup> June, 2017, may opt for settling the arrears by availing a complete reduction of the penalty amount, interest on the surcharge amount and on the penalty amount, on payment of,—

(i) fifty per cent of the principal amount of the surcharge in arrears; or

(ii) forty per cent of the principal amount of the surcharge in arrears, if the amount is paid in lump sum within thirty days of receipt of intimation of the assessing authority referred to in sub-section (7).

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(4) All arrears including surcharge, interest and penalties pertaining to an assessee shall be settled together under this section.

(5) An assessee who intends to opt for payment of arrears under sub-section (1) shall submit an option to the assessing authority on or before 30<sup>th</sup> November, 2020:



Provided that with respect to demands generated after 30<sup>th</sup> November, 2020, the option may be filed within thirty days on receipt of the assessment order and in such cases the final payment of surcharge and other amounts due as per this section shall be completed on or before 31<sup>st</sup> March, 2021.

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(7) On receipt of the option under sub-section (5), the assessing authority shall determine the amount of surcharge and other amounts due from the assessee under sub-section (1) and shall intimate the same to the assessee, and thereupon the assessee shall remit the amount in installments or lump sum, as the case may be, on or before 31<sup>st</sup> March, 2021:

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(12) Assessee who opted to settle the arrears under this section during previous years, but had failed to make payments may also opt to settle the arrears under this section, and the amounts, if any, paid earlier shall be given credit as surcharge before reckoning the arrears to be settled under sub-section(6) and the assessee shall furnish the proof of payments made in this regard, however no refunds shall be allowed.

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EXTRACT FROM THE RELEVANT PORTIONS OF THE  
KERALA COURT FEES AND SUITS  
VALUATION ACT, 1959

(10 OF 1960)

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CHAPTER VIII

LEGAL BENEFIT FUND

76. *Legal Benefit Fund.*—(1) Notwithstanding anything contained in this Act or any other law for the time being in force and subject to section 4A of the Act and sub-rule (1) of rule 397 of the Kerala Motor Vehicle Rules, 1989 it shall be competent for the Government to levy an additional court fee by notification in the Gazette, in respect of original petitions, original applications, appeals or revisions to tribunals, appellate authorities and original suits in Civil Courts other than in Family Court at a rate not exceeding one percent of the amount involved in the dispute and in other cases at a rate not exceeding one hundred rupees for each original suit, original petition, original application, appeal or revision.

*Explanation.*—The term “amount involved in the dispute” as specified in sub-section (1), where it is capable of valuation, does not include the amount of valuation for the purpose of court fee, in suits for recovery of possession, partition and suits of similar nature and where fixed court fee is specified under this Act.”;

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

(15 OF 1963)

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7. *Payment of tax at compounded rates.*—Notwithstanding anything contained in sub-section (2) of section 5, any bar attached hotel, not being a star hotel of and above four star hotel, heritage hotel or club, may, at its option, instead of paying turnover tax on foreign liquor in accordance with the said sub-section, pay turnover tax on the turnover of foreign liquor calculated at the rates in item (i) or (ii), as the case may be,

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(a) at one hundred and eighty per cent of the purchase value of such liquor, in the case of those situated within the area of a municipal corporation or a municipal council or a cantonment, and at one hundred and seventy per cent of the purchase value of such liquor, in the case of those situated in any other place; or

(b) at one hundred and twenty five per cent of the highest turnover tax payable by it as conceded in the return or accounts or the turnover tax paid for any of the previous consecutive three years:

“Provided that the calculation under sub-clause (b) of clause (ii) shall not be applicable in case of bar attached hotels whose FL-3 licences issued under the Abkari Act, 1077 (1 of 1077) was cancelled and was converted to FL-11 licences in pursuance of the Abkari Policy of the Government for the year 2014-15 and such FL-11 licencees had conducted business under such licence for a full financial year.”;

“7A. *Special provision for payment of turnover tax and waiver of penalty and interest.*—(1) Notwithstanding anything contained in this Act or rules made thereunder or in any assessment, judgment, decree or order of any court, tribunal or appellate authority, bar hotels,—

(i) which were closed pursuant to the Abkari policy of the Government for the year 2014-2015, and were registered and had paid turnover tax prior to such closure; and

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(iii) who have not paid turnover tax on the turnover of sale conducted under such new/renewed licences for the period up to 31<sup>st</sup> March, 2020 and assessments were either completed or not, against them for the turnover tax due for such period,

Shall be allowed to settle the arrears of turnover tax up to 31<sup>st</sup> March, 2020 at the rates mentioned in section 7, subject to eligibility conditions mentioned therein, with complete waiver of penalty and fifty per cent waiver on interest, subject to the following conditions, namely: —

(a) the option to settle under this scheme shall be filed on or before 30<sup>th</sup> November, 2020.

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(d) twenty per cent of the amount determined in sub-clause (c) shall be paid within a month of receipt of the intimation referred therein and the balance amount shall be paid four installments before 31<sup>st</sup> March, 2021.

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**"23B. Reduction of arrears in certain cases.—**(1) Notwithstanding anything contained in this Act or rules made thereunder or in any judgment, decree or order of any court, tribunal or appellate authority, any assessee, who is in arrears of tax or any other amount due under this Act or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956),—

(i) in case of demands relating to the period up to and including 31<sup>st</sup> March, 2005, may opt for settling the arrears by availing a complete reduction of the penalty amount, interest on the tax amount and on the penalty amount, on payment of,—

(a) fifty per cent of the principal amount of the tax in arrears; or

(b) forty per cent of the principal amount of the tax in arrears, is the amount is paid in lump sum within thirty days of receipt of intimation of the assessing authority

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(4) All arrears including tax, interest and penalties pertaining to an assessee shall be settled together under this section

(5) An assessee who intends to opt for payment of arrears under sub-section (1) shall submit an option to the assessing authority on or before 30<sup>th</sup> November, 2020:

Provided that with respect to demands generated after 30<sup>th</sup> November, 2020 the option may be filed within thirty days from the date of receipt of the order and in such cases the final payment of tax and other amount due as per this section shall be completed before 31<sup>st</sup> March, 2021.

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(7) On receipt of the option under sub-section (5), the assessing authority shall determine the amount of tax and other amounts due from the assessee under sub-section (1) and shall intimate the same to the assessee, and thereupon the assessee shall remit the amount in installments on or before 31<sup>st</sup> March, 2021:

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(11) Assessee who opted to settle their arrears under this section during previous years, but had failed to make payments may also opt to settle their cases under this section, and the amounts, if any, paid earlier shall be given credit as tax before reckoning the arrears to be settled under sub-section(6) and the assessee shall furnish the proof of payments made in this regard, provided that no refunds shall be allowed.

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EXTRACT FROM THE RELEVANT PORTIONS OF THE  
KERALA BUILDING TAX ACT, 1975

(7 OF 1975)

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5. *Charge of building tax.*—(1) Subject to the other provisions contained in this Act, there shall be charged a tax (hereinafter referred to as building tax) based on the plinth area at the rate specified in the Schedule-I on every building the construction of which completed on or after the appointed day.

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

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“37C. *Reduction of arrears in certain cases.*—(1) Notwithstanding anything contained in this Act or rules made thereunder or in any judgment, decree or order of any court, tribunal or appellate authority, any assessee who is in arrears of tax or any other amount due under this Act relating to the period up to and including 31<sup>st</sup> March, 2017, may opt for settling the arrears on payment of,—

(i) fifty per cent of the principal amount of the tax in arrears; or

(ii) forty per cent of the principal amount of the tax in arrears, if the amount is paid in lump sum within thirty days of receipt of intimation of the assessing authority referred to in sub-section (7).

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(4) All arrears including tax, interest and penalties pertaining to an assessee shall be settled together under this section.

(5) An assessee who intends to opt for payment of arrears under sub-section (1) shall submit an option to the assessing authority on or before 30<sup>th</sup> November, 2020:

Provided that with respect to demands generated after 30<sup>th</sup> November, 2020, the option may be filed within thirty days, on receipt of the assessment order and in such cases the final payment of tax and other amounts due as per this section shall be completed on or before 31<sup>st</sup> March, 2021.

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(7) On receipt of the option under sub-section (5), the assessing authority shall determine the amount of tax and other amounts due from the assessee under sub-section (1) and shall intimate the same to the assessee, and thereupon the assessee shall remit the amount in installments or lump sum, as the case may be, on or before 31<sup>st</sup> March, 2021:

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(12) Assessee who opted to settle their arrears under this section during previous years, but had failed to make payments may also opt to settle their cases under this section, and the amounts, if any, paid earlier shall be given credit as tax before reckoning the arrears to be settled under sub-section(6) and the assessee shall furnish the proof of payments made in this regard, provided that no refunds shall be allowed.”

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**EXTRACT FROM THE KERALA STATE GOODS AND  
SERVICES TAX ACT, 2017  
(20 OF 2017)**

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7. *Scope of supply.*—(1) For the purposes of this Act, the expression “supply” includes,—

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

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16. *Eligibility and conditions for taking input tax credit* —(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

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(35) *Accounts and other records.*—(1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of,—

(a) production or manufacture of goods;

(b) inward and outward supply of goods or services or both;

- (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid; and
- (f) such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

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(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.

“Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under law for the time being in force.”

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44. *Annual return.*—(1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.

“Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central tax shall be deemed to be notified by the Commissioner.”.

(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

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50. *Interest on delayed payment of tax.*—(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent, as may be notified by the Government on the recommendations of the Council.

“provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”.

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*74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.—(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.*

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(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

*Explanation 1:*—For the purposes of Section 73 and this section,—

(i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;

(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

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75. *General provisions relating to determination of tax.*—(1) Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74, as the case may be.

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(12) Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.

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83. *Provisional attachment to protect revenue in certain cases.*—(1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the

interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.

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107. *Appeals to Appellate Authority.*—(1) Any person aggrieved by any decision or order passed under this Act or the Central goods and Services Tax Act, 2017 (Central Act 12 of 2017) by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

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(6) No appeal shall be filed under sub-section (1), unless the appellant has paid,—

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order subject to a maximum of twenty-five crore rupees, in relation to which the appeal has been filed.

129. *Detention, seizure and release of goods and conveyances in transit.*—(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention of seizure, shall be released,—

(a) on payment of the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods and, in case of exempted



goods, on payment of an amount equal to two per cent of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;

(b) on payment of the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;

(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed;

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

(2) The provisions of sub-section (6) of section 67 shall, *mutatis mutandis*, apply for detention and seizure of goods and conveyances

(3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c)

(4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.

(5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.

(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.

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130. *Confiscation of goods or conveyances and levy of penalty.*—(1) Notwithstanding anything contained in this Act, if any person,—

(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(ii) does not account for any goods on which he is liable to pay tax under this Act; or

(iii) supplies any goods liable to tax under this Act without having applied for registration; or

(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment or tax; or

(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of the Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

(2) whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lie of confiscation, such fine as the said officer thinks fit:

Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:

Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

(3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.

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151. *Power to collect statistics.*—(1) The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act.

(2) Upon such notification being issued, the commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected.

152. *Bar on disclosure of information.*—(1) No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act.

(2) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.

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## SCHEDULE II

(See Section 7)

ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR  
SUPPLY OR SERVICES

1. *Transfer*.— (a) any transfer of the title in goods is a supply of goods;

(b) any transfer or right in goods or of undivided share in goods without the transfer of title thereof, is supply of services;

(c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

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7. *Supply of Goods*.— The following shall be treated as supply of goods, namely:—

Supply of goods by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or other valuable consideration.

EXTRACT FROM THE RELEVANT PORTIONS OF  
THE KERALA FINANCE ACT, 2019  
(5 OF 2019)

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“12. *Reduction of arrears in certain cases.*—(1) Notwithstanding anything contained in sub-section (1) of section 174 of the Kerala State Goods and Services Tax Act, 2017 (20 of 2017) and in the Kerala Tax on Luxuries Act, 1976 (32 of 1976) (hereinafter referred to as the former Act) or rules made thereunder or in any judgment, decree or order of any court, tribunal or appellate authority, any assessee who is in arrears of tax or any other amount due under this Act relating to the period up to and including 30th June, 2017, may opt for settling the arrears on payment of,—

(i) fifty per cent of the principal amount of the tax in arrears ; or

(ii) forty per cent of the principal amount of the tax in arrears, if the amount is paid in lump sum within thirty days of receipt of intimation of the assessing authority referred to in sub-section (7):

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(4) All arrears including tax, interest and penalties pertaining to an assessee shall be settled together under this section.

(5) An assessee who intends to opt for payment of arrears under sub-section (1) shall submit an option to the assessing authority on or before 30<sup>th</sup> November, 2020 :

Provided that with respect to demands generated after 30<sup>th</sup> November, 2020, the option may be filed within thirty days, on receipt

of the assessment order and in such cases the final payment of tax and other amounts due as per this section shall be completed on or before 31st March, 2021.

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(7) On receipt of the option under sub-section (5), the assessing authority shall determine the amount of tax and other amounts due from the assessee under sub-section (1) and shall intimate the same to the assessee, and thereupon the assessee shall remit the amount in installments or lump sum, as the case may be, on or before 31st March, 2021 :

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(12) Assesseees who opted to settle their arrears under this section during previous years, but had failed to make payments may also opt to settle their cases under this section, and the amounts, if any, paid earlier shall be given credit as tax before reckoning the arrears to be settled under sub-section (6) and the assessee shall furnish the proof of payment made in this regard, however that no refunds shall allowed.

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**EXTRACT FROM THE RELEVANT PORTIONS OF  
THE KERALA FINANCE ACT, 2020  
(7 OF 2020)**

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10. *special provision for Reduction of arrears in certain cases.*—

(1) Notwithstanding anything contained in sub-section (1) of section 174 of the Kerala State Goods and Services Tax Act, 2017 (20 of 2017) and in the Kerala Value Added Tax Act, 2003 (hereinafter referred to as the former Act) or rules made thereunder or in any judgment, decree or order of any court, tribunal or appellate authority, any assessee who is in arrears of tax or any other amount due under the former Act or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) relating to the period up to and including 30<sup>th</sup> June, 2017, may opt for settling the arrears on payment of,—

(i) fifty per cent of the principal amount of the tax in arrears ; or

(ii) forty per cent of the principal amount of the tax in arrears, if the amount is paid in lump sum within 30 days of receipt of intimation of the assessing authority referred to in sub-section (7) :

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(4) All arrears including tax, interest and penalties pertaining to an assessee shall be settled together under this section.

(5) An assessee who intends to opt for payment of arrears under sub-section (1) shall submit an option to the assessing authority on or before 30<sup>th</sup> November, 2020 :

Provided that with respect to demands generated after 30<sup>th</sup> November, 2020, the option may be filed within thirty days, on receipt of the assessment order and in such cases the final payment of tax and other amounts due as per this section shall be completed on or before 31<sup>st</sup> March, 2021.

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(7) On receipt of the option under sub-section (5), the assessing authority shall determine the amount of tax and other amounts due from the assessee under sub-section and shall intimate the same to the assessee, and thereupon the assessee shall remit the amount in installments or lump sum, as the case may be, on or before 31<sup>st</sup> March, 2021 :

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(12) Assessee who have opted to settle their arrears under section 31A or section 31B of the former Act during previous years, but had failed to make payments may also opt to settle their cases under this section, and the amounts, if any, paid earlier shall be given credit as tax before reckoning the arrears to be settled under sub-section (6) and the assessee shall furnish the proof of payments made in this regard, however that no refunds shall be allowed.

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