

THE KERALA FINANCE BILL, 2017

(As Passed by the Assembly)

A

BILL

to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2017-2018.

Preamble.—WHEREAS, it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2017-2018;

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

1. *Short title and Commencement.*—(1) This Act may be called the Kerala Finance Act, 2017.

(2) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 1st day of April, 2017.

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

(1) in section 2,

(a) in clause (e), for the words “an adhesive or impressed stamp”, the words and symbols “an adhesive, impressed or e-stamp” shall be substituted;

(b) after clause (e), the following clause shall be inserted, namely:—

“(ea) “e-stamp” means an electronically generated impression issued by the Government of Kerala to denote the payment of stamp duty;”;

(c) after clause (p), the following clause shall be inserted, namely:—

“(pa) “Registering Officer” means the officer appointed under section 6 of the Registration Act, 1908 (Central Act XVI of 1908);”;

(d) in clause (qq),—

(i) for the words “mark, seal or endorsement”, the words and symbols “mark, seal, endorsement, impression or e-stamping” shall be substituted;

(ii) for the words “adhesive or impressed stamp” the words and symbols “adhesive, impressed or e-stamp” shall be substituted;

(2) in section 10, in clause (b) of sub-section (2), after the words "impressed stamps", the words and symbol "or e-stamps" shall be inserted;

(3) after section 10A, the following section shall be inserted, namely:—

"10B. *Appointment of Central Record Keeping Agency.*—The Government may, by notification in the Official Gazette, appoint the Department of Treasuries as Central Record Keeping Agency which shall have such duties and functions as may be prescribed, regarding issue of e-stamps.";

(4) after section 12, the following section shall be inserted, namely:—

"12A. *Defacement of e-stamp.*—(1) Any e-stamp in an instrument shall be defaced through online verification system by the Registering Officer or any other officer authorised by the Government, in such manner as may be prescribed, so that the same cannot be used again.

(2) Any instrument bearing an e-stamp which has not been defaced, so far as such stamp is concerned be deemed to be unstamped.";

(5) in section 13,—

(a) in the marginal heading, after the words "impressed stamps", the words and symbol "or e-stamps" shall be inserted;

(b) in the existing provision, after the words "impressed stamp", the words and symbol "or e-stamp" shall be inserted;

(6) in section 47, after the words "impressed stamps" the words and symbol "or e-stamps" shall be inserted;

(7) after clause (a) of sub-section (2) of section 69, the following clause shall be inserted, namely:—

"(aa) the manner of payment of stamp duty and refund thereof by e-payment".

3. *Amendment of Act 15 of 1963.*—In the Kerala General Sales Tax Act, 1963 (15 of 1963), in section 23B,—

(a) in sub-section (3), for the words and figures "28th February, 2017", the words and figures "31st December, 2017" shall be substituted;

(b) in sub-section (4), for the words and figures "28th February, 2017", the words and figures "31st December, 2017" shall be substituted;

(c) after sub-section (8), the following sub-section shall be inserted namely:—

“(9) If the dealer had filed option in 2016-17 but failed to remit the entire amount as per this section, the amount paid under the earlier option shall be treated as amount paid under the new option.”.

4. *Amendment of Act 32 of 1976.*—In the Kerala Tax on Luxuries Act, 1976 (32 of 1976), for section 10B, the following section shall be substituted, namely:—

“10B. *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, an assessee who is in arrears of tax or any other amount due under this Act relating to the period up to and including 31st March 2011, may opt for settling the arrears on payment of the principal amount of tax in arrears and thirty per cent of penalty amount, by availing a complete reduction of the interest on the tax amount and interest on the penalty amount.

(2) Notwithstanding anything contained in the Kerala Revenue Recovery Act, 1968 (15 of 1968) reduction of arrears under sub-section (1) shall be applicable to those cases in which revenue recovery proceedings have been initiated and the assessing authorities shall have the power to collect such amounts on settlement under sub-section (1) and where the amount is settled under sub-section (1), the assessing authorities shall withdraw the revenue recovery proceedings against such assesseees which will then be binding on the revenue authorities and such assesseees shall not be liable for payment of any collection charges.

(3) The assessee shall withdraw all the cases pending before any appellate or revisional authority, tribunal or courts for opting for settling the arrears under this section.

(4) All arrears including tax and penalties pertaining to a year 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 application to the assessing authority on or before 30th September, 2017.

(6) The arrears for the purpose of settlement under this section shall be calculated as on the date of submission of application.

(7) On receipt of an application 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 equal monthly instalments on or before 31st December, 2017:

Provided that an assessee who opts to settle his arrears under sub-section (1) has remitted any amount relating to the arrears for obtaining a stay voluntarily or by way of an order or decree or judgment passed by any court or tribunal or appellate authority and if the case is pending before such authority, the amount so paid shall be treated as that paid under this option.

(8) There shall not be any refund subsequently for the amount settled under this scheme, under any circumstances.

5. *Amendment of Act 15 of 1991.*—In the Kerala Agricultural Income Tax Act, 1991 (15 of 1991) for section 37C, the following section shall be substituted, namely:—

“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, an assessee who is in arrears of tax or any other amount due under this Act relating to the period up to and including 31st March 2011, may opt for settling the arrears on payment of the principal amount of tax in arrears and thirty per cent of the penalty amount by availing a complete reduction of the interest on the tax amount and on the penalty amount;

(2) Notwithstanding anything contained in the Kerala Revenue Recovery Act, 1968 (15 of 1968), reduction of arrears under sub-section (1) shall be applicable to those cases in which revenue recovery proceedings have been initiated and the assessing authorities shall have the power to collect such amounts on settlement under sub-section (1) and where the amount is settled under sub-section (1), the assessing authorities shall withdraw the revenue recovery proceedings against such assesseees which will then be binding on the revenue authorities and such assesseees shall not be liable for payment of any collection charges.

(3) The assessee shall withdraw all the cases pending before any appellate or revisional authority, tribunal or courts for opting under this section.

(4) All arrears including tax and penalties pertaining to a year 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 application to the assessing authority on or before 30th September, 2017.

(6) The arrears for the purpose of settlement under this section shall be calculated as on the date of submission of the application.

(7) On receipt of an application 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 equal monthly instalments on or before 31st December, 2017:

Provided that an assessee who opts to settle his arrears under sub-section (1) has remitted any amount relating to the arrears for obtaining a stay voluntarily or by way of an order or decree or judgment passed by any court or tribunal or appellate authority and if the case is pending before such authority, the amount so paid shall be treated as that paid under this option.

(8) There shall not be any refund subsequently for the amount settled under this scheme, under any circumstances.”.

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

(1) in section 6,—

(a) in sub-section (1), after the nineteenth proviso, the following provisos shall be inserted, namely:—

“Provided also that the sale of packing materials by a registered dealer to an exporter for the purpose of use in the packing of exported goods shall be exempted from the tax for the period up to 31st March, 2016, subject to the condition that the sale has been supported by ‘H’ Forms issued under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), by such exporting dealer and tax, if any, paid shall not be refunded:

Provided also that the rate of tax on works contract of supply and installation of solar energy devices, equipments and plants shall be one per cent from 1st April, 2013 and tax, if any, paid at higher rate shall not be refunded:

Provided also that the goods specified in item (1) of serial number 134 of List A of the Third Schedule shall be exempted from tax for the period from 20th December, 2014 to 31st March 2015:

Provided also that the rate of tax of Mobile Phone Charger sold along with Mobile Phone in a sealed pack shall be at the rate applicable to the goods specified in the Third Schedule from 1st April 2005:

Provided further that the rate of tax on ‘bakery shortening’ included under the Chapter 15 to the Schedule to the Customs Tariff Act 1975 (Central Act 51 of 1975) with the HSN code 1517.90, shall be at the rate applicable to the goods in the Third Schedule, from 1st April 2005 to 22nd February 2017.

Notwithstanding anything contained in the aforementioned proviso, tax if any paid, shall not be refunded.”;

(b) in sub-section(2), to clause(a) the following proviso shall be inserted, namely:—

Provided that notwithstanding anything contained in clause(f) of section 8, a dealer paying compounded tax for the goods mentioned in that clause, shall not be liable to pay tax under this sub-section on such goods with effect from 1st April 2013.”;

(2) in section 24, in sub-section (1),—

- (i) in clause (c), for the words “three years” the words “four years” shall be substituted;
- (ii) for the fourth proviso, the following proviso shall be substituted, namely:—

“Provided also that the period for rejection of return and completion of assessments including those subjected to extension under section 25B which expires on 31st March, 2017, shall be extended up to 31st March, 2018.”;

(3) in section 25, in sub-section (1),—

- (i) for the words “five years”, the words “six years” shall be substituted;
- (ii) for the third proviso, the following proviso shall be substituted, namely:—

“Provided also that the period for proceeding to determine any assessment including those subjected to extension under section 25B which expires on 31st March, 2017, shall be extended up to 31st March, 2018.”;

(4) for section 25E, the following section shall be substituted, namely:—

“25E. *Special provision for assessment and payment of tax for presumptive dealers.*—(1) Notwithstanding anything contained in this Act or rules made thereunder or in any judgment, decree or order of any court, tribunal or appellate or revisional authority or any assessment order or penalty order issued under this Act, the dealers who have opted to pay tax under sub-section (5) of section 6 and

with regard to whom unaccounted purchases have been detected by the assessing authority for the period up to 31st March, 2016, may opt to settle their cases by paying tax at,—

- (i) half per cent on the turnover of taxable goods, if the total turnover determined is, within the total turnover limit specified under sub-section (5) of section 6;
- (ii) one per cent on the turnover of taxable goods, for the total turnover determined in excess of the total turnover limit specified under sub-section (5) of section 6 and up to rupees one crore, in addition to the tax due under clause (i) above;
- (iii) two per cent on the turnover of taxable goods, for the total turnover determined above rupees one crore, in addition to the tax due under clauses (i) and (ii) above,

and on payment of such tax, all penalties and interest including penalty under sub-section (7) of section 22, shall stand waived.

Explanation:—Notwithstanding anything contained in clause (li) of section 2 of the Act, for the purpose of this section, 'total turnover determined' shall be the total turnover obtained by adding unaccounted purchases detected or declared with five per cent gross profit to the total turnover declared as per the returns filed.

(2) For settling the cases under sub-section (1), the dealer shall file option before the assessing authority on or before 30th September, 2017, along with the evidence regarding withdrawal of cases, if any, pending before any court, tribunal or appellate or revisional authority.

(3) Such option and settlement shall cover all the financial years in which unaccounted purchases have been detected.

(4) The assessing authority shall intimate the dealer, the amount to be paid under sub-section (1), within fifteen days from the date of receipt of the option.

(5) Thirty per cent of the amount due under this scheme shall be paid within fifteen days from the date of receipt of the intimation under sub-section (4) and the balance amount shall be paid on or before 31st December, 2017 in equal monthly instalments.

(6) Without prejudice to the provisions of this section, the Commissioner may issue such instructions to the assessing authorities and the dealers for the effective implementation of the scheme.

(7) Any dealer who opts for this scheme shall obtain Tax payers Identification Number (TIN) under this Act with effect from 1st April, 2016.

(8) No further action under any of the provisions of this Act shall be initiated by the assessing authority with regard to the unaccounted purchases settled by the dealer under this section or other irregularities in accounts which resulted from such unaccounted purchases, and no appeal or revision shall lie against the amount so settled under this section.

(9) Dealers who have opted to pay tax under sub-section (5) of section 6 and with regard to whom unaccounted purchases have not been detected by the assessing authority for the period up to 31st March, 2016, may also voluntarily declare such unaccounted purchases, and opt for the scheme mentioned in sub-section (1), and on doing so, no further action under this Act shall be initiated against such dealers with regard to the same.

(10) Dealers who opted to settle their cases under this section in 2016-17, 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 adjusted towards the amount to be paid under this section, provided that no refunds shall be allowed.

(11) There shall not be any refund subsequently for the amount settled under this Scheme, under any circumstance.”;

(5) after section 25E, the following section shall be inserted, namely:—

“25F. *Special provisions for assessment and payment of tax for certain work contractors.*—Notwithstanding anything contained in this Act or rules made thereunder or in any judgment, decree or order of any court, tribunal or appellate authority, works contractors who have opted for and paid compounded tax under clause (a) of section 8 of the Act for the years up to 2014-15 in respect of works relating to installation of kitchen cabinet, aluminium fabrication and air conditioning plants in which the transfer of materials is in the form of goods and if all the purchases for executing such contracts are from within the State, may pay an additional tax of two per cent on the whole contract amount, and on payment of such tax, no further proceedings under this Act, including any assessment or penalties shall lie against such contractors.”;

(6) after section 31, the following section shall be inserted, namely:—

“31A. *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) relating to the period up to and including 31st March, 2011, may opt for settling the arrears on payment of the principal amount of the tax in arrears and thirty per cent of the penalty amount by availing a complete reduction of the interest on the tax amount and on the penalty amount.

(2) Notwithstanding anything contained in the Kerala Revenue Recovery Act, 1968 (15 of 1968) reduction of arrears under sub-section (1) shall be applicable to those cases in which revenue recovery proceedings have been initiated and the assessing authorities shall have the power to collect such amounts on settlement under sub-section (1) and where the amount is settled under sub-section (1) the assessing authorities shall withdraw the revenue recovery proceedings against such assessee which will then be binding on the revenue authorities and such assessee shall not be liable for payment of any collection charges.

(3) The assessee shall withdraw all the cases pending before any appellate or revisional authority, tribunal or courts for opting under this section.

(4) All arrears including tax and penalties pertaining to a year 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 application to the assessing authority on or before 30th September, 2017.

(6) The arrears for the purpose of settlement under this section shall be calculated as on the date of submission of application.

(7) On receipt of an application under sub-section (5), the assessing authority shall determine the amount of tax and other amounts due from the dealer under sub-section (1) and shall intimate the same to the dealer, and thereupon the dealer shall remit the amount in equal monthly instalments on or before 31st December, 2017:

Provided that an assessee who opts to settle his arrears under sub-section (1) has remitted any amount relating to the arrears for obtaining a stay voluntarily or by way of an order or decree or judgment passed by any court or tribunal or appellate authority and, if the case is pending before such authority, the amount so paid shall be treated as that paid under this option.

(8) There shall not be any refund subsequently for the amount settled under this scheme, under any circumstances.”;

(7) in section 55, in sub-section (1),—

(i) for the words, brackets and figures “other than those under section 16, section 19, sub-sections (8) and (9) of section 44, section 49, section 67, section 68, section 69 and section 70” the words, brackets and figures “other than those under sub-section (3), sub-section (8) or sub-section (9) of section 16 and sub-section (8) of section 19” shall be substituted;

(ii) in the first proviso, for the figures and words “48, 70A and 72”, the figures and words “48, 49, 67, 69, 70, 70A and 72” shall be substituted;

(8) in section 57, in sub-section (1), after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that where an order of the assessing authority which has become appealable under section 55 with effect from 1st April, 2017 by virtue of the Kerala Finance Act, 2017, is pending as revision under this section, such revision shall stand transferred to the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals) as the case may be, and such authority shall consider the same as if it is an appeal filed before it.”;

(9) in section 60, in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that where an order of the assessing authority which has become appealable under section 55 with effect from 1st April, 2017 by virtue of the Kerala Finance Act, 2017, and on which the Deputy Commissioner had passed orders under section 57 and revision against such orders are pending under section 59, such revision shall stand transferred to the appellate tribunal and the tribunal shall consider the same as if it is an appeal filed before it.”;

(10) after section 96, the following section shall be inserted, namely:—

“96A. *Framing Special schemes for speedy disposal of assessment and reassessment.*—For the speedy disposal of assessments and re-assessments, the Government may by notification in the Official Gazette, frame special scheme outlining the structure, functions, procedure and the manner to initiate and complete assessments under this Act under a fast-track mode.”.