

C.D.



GOVERNMENT OF KERALA

No.23539/C2/2014/TD.

Taxes (C) Department
Thiruvananthapuram
Phone: 0471 2518206.
Dated: 30.06.2016.

From **16165**

The Additional Chief Secretary to Government

To
The Advocate General,
Kerala, Ernakulam.

Sir,

Sub:- Taxes Department – WP(C)No.22642/14 filed by Navadhara Kuries – Judgment dtd. 02.09.2014 – Complied with - Reg.

Ref:- 1) Judgment dtd. 02.09.2014 of the Hon'ble High Court of Kerala.
2) Your letter No.Z3-WP(C)No.22642/14 dtd. 24.11.2014.
3) G.O.(P).No.63/2016/TD. dtd. 07.06.2016.

I am to forward herewith a copy of the Notification third cited issued in compliance with the judgment first cited. This may be brought to the kind notice of the Hon'ble High Court.

Yours faithfully,
DINESH.P

Under Secretary
For Additional Chief Secretary to Government

Approved for issue,

[Signature]
Section Officer.

Copy to:- The Inspector General of Registration, Thiruvananthapuram.

Encl No.C2. 26033/12

രജി. ഇൻസ്പെക്ടർ ജനറൽ മുൻപിൽ
തിരുവനന്തപുരം 5/07/16.

Communicate this order to all Inspector of chits,
chitty Auditors and all Assistant Registrar of chits
[Signature] (chitty)

atory Note

e notification but is intended to indicate

Act, 1982 (Central Act XL of 1982)
ed by the State Government may either
criminal proceedings, compound any
uch conditions and amount as may be
he above, Government have decided to
erala Chit Fund Rules, 2012.

achieve the above object.

©
കേരള സർക്കാർ
Government of Kerala
2016



Regn. No. KERBIL/2012/45073
dated 5-9-2012 with RNI
Reg. No. KL/TV(N)/634/2015-17

കേരള ഗസറ്റ് KERALA GAZETTE

അസാധാരണം
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
PUBLISHED BY AUTHORITY

		2016 ജൂൺ 18		
		18th June 2016		
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	Thiruvananthapuram, Saturday	28th Jyaishta 1938	No.	

GOVERNMENT OF KERALA

Taxes (C) Department

NOTIFICATION

O. (P) No. 63/2016/TD.

Dated, Thiruvananthapuram, 7th June, 2016
24th Idavam, 1191.

S. R. O. No. 432/2016.—In exercise of the powers conferred by
tion 89 of the Chit Funds Act, 1982 (Central Act XL of 1982), the
vernment of Kerala in consultation with the Reserve Bank of India
eby makes the following rules further to amend the Kerala Chit Funds
es, 2012 issued by notification under G. O. (P) No. 94/2012/TD dated
June, 2012 and published as S.R.O. No. 397/2012 in Kerala Gazette
raordinary No. 1159 dated 5th June, 2012, namely:—

33/1981/2016/S-11.

RULES

1. *Short title and commencement.*—(1) These Rules may be called the Kerala Chit Funds (Amendment) Rules, 2016.

(2) They shall come into force at once.

2. *Amendment of the Rules.*—In the Kerala Chit Funds Rules, 2012,—

(1) for rule 64, the following rule shall be substituted, namely:—

“64. *Compounding of offences arising under the Act.*—(1) The Deputy Registrar of Chits of the concerned District shall issue a show cause notice before taking any action under sections 76 or 77 of the Act against any person who has committed, or reasonably suspected to have committed any offence under the Act, or rules made thereunder asking him to show cause within a period of fifteen days, why action under the said section 76 or as the case may be, under section 77 of the Act should not be taken against him.

(2) Notwithstanding anything contained in the said provision,—The Deputy Registrar of Chits (Headquarters) in the office of the Registrar/ Deputy Registrar of Chits (District Registrars of the respective Districts) may compound the offence committed under the Act or reasonably suspected to have committed any offence under the Act and Rules made thereunder by any person, either before or after the institution of the criminal proceedings under the Act, subject to the provisions as contained in rule 65 and 66.”.

(2) after rule 64, the following rule shall be inserted, namely:—

“65. *Power to Compound offence.*—(1) If any person contravenes any provisions of the Act,—

(a) for contraventions falling under sub-sections (1) and (3) of section 76 of the Act the Deputy Registrar of Chits (Headquarters) in the office of the Registrar shall be the Compounding Authority.

(b) for contravention falling under sub-section (2) of section 76 of the Act the Deputy Registrar of Chits (District Registrars of the respective Districts) shall be the Compounding Authority.

(2) Every officer designated under sub-rules (1) and (2) above shall exercise such powers and functions subject to the direction, control and supervision of the Registrar of Chits.

(3) Every application for compounding any contravention under this rule shall be made in Form I of Appendix III to the Assistant Registrar of Chits under whose jurisdiction in which such contravention took place.

(4) Where any contravention is compounded either before or after the institution of criminal proceedings under the Act, no further inquiry shall be held with respect to such contravention against the person in relation to whom the contravention is so compounded.

(5) An application for compounding of a contravention under the Act may be submitted directly to the Compounding Authority (CA) concerned with an undertaking appended in Form II of Appendix III. However if the contravention comes under sub-sections (1) and (3) of section 76, application shall be made only through Assistant Registrar. The Assistant Registrar shall forward the same to the Compounding Authority with his recommendations.

(6) All applications for compounding the contraventions under sub-section (2) of section 76 of the Act may be submitted by the person to the Compounding Authority concerned together with compounding amount as provided in Appendix III of the rules, paid in advance.

(7) On receipt of the application for compounding, the proceedings shall be concluded and an order shall be issued by the Compounding Authority within 180 days from the date of the receipt of the application for compounding. The time limit for this purpose would be reckoned from the date of receipt of the completed application for compounding by the Compounding Authority. The Compounding Authority may call for any information, record or any other documents relevant to the compounding proceedings and will hold the proceedings accordingly. The Compounding Order will be passed by the Compounding Authority after affording the contravener and others concerned, an opportunity of being heard. However, if the person who committed the offence admits his offence in the application, no hearing need be conducted.

(8) The disposal of the compounding application is made by issue of a Compounding Order specifying the provisions of the Act or any rule, regulation, notification, direction or order issued in exercise of the powers under the said Act, in respect of which contravention has taken place.

(9) The Compounding Authority may call for any additional information, record or any other document relevant to the compounding proceedings. Such additional information/documents are required to be submitted within the period as may be specified by the Compounding Authority and the application may be rejected if such information/documents are not submitted or a sufficient explanation for non production is not offered within the prescribed time.

(10) The compounding amount shall be paid in advance for offences under article 2 of Appendix III of the Kerala Chit Fund Rules, 2012 and for offences punishable under Sub-sections (1) and (3) of Section 76 of the Act, the compounding amount determined by way of composition shall be paid after issuing the compounding order.

(11) If the Compounding Authority decided not to compound the offence, the entire amount so paid in advance for composition shall be refunded.

(12) No contravention shall be compounded if an appeal has been filed under sections 70 or 74 of the Act.

(13) (i) Every order shall specify the provisions of the Act or of the rules, directions, requisitions or orders made thereunder in respect of which contravention has taken place along with details of the alleged contravention and the date on or before the compounding amount shall be paid.

(ii) Every such order shall be dated and signed by the Compounding Authority under his seal.

(14) One copy of the order shall be send to the applicant and to the office where the applicant has filed his application for compounding. Where the compounding of any contravention is made after the institution of criminal proceedings under the Act and the same is under arbitration, one copy of the order shall be supplied to the Authority who initiated such proceedings or the Arbitrator as the case may be.”

(3) after rule 65, the following rule shall be inserted, namely:—

“66. *Compounding of offences repeated.*—An offence compoundable under this rule, once compounded, shall not be compounded again, if the same is repeated:

Provided that the maximum number of offences that can be compounded under this rule is limited to three.”

(4) after Appendix II, the following Appendix shall be inserted, namely:—

“APPENDIX III

Schedule of Compounding amount for offences punishable under Sub-section 76 of the Chits Funds Act, 1982.

Sl. No.	1. <i>Offences punishable under Sub-section (1) of Section 76 of the Act which are compoundable</i>	<i>Compounding amount in (₹)</i>
(1)	(2)	(3)
1	Invitation for subscription without previous sanction under section 4 of the Act	5,000
2	Failure to maintain minimum capital requirements for the commencement of a chit or non creation of the reserve fund, by a company as provided under section 8 of the Act	5,000
3	Commencement of Chits without obtaining Certificate of Commencement as provided under section 9 of the Act	5,000
4	Doing chit business without using or doing other business using the words ‘chits’, ‘chit fund’, ‘chitty’ or ‘kuri’ as part of his name as provided under section 11 of the Act	5,000

(1)	(2)	(3)
5	Opening place of business without obtaining the prior approval of the Registrar having territorial jurisdiction as provided under section 19 of the Act	5,000
6	Failure on the part of Foreman in fulfilling his duties as provided under section 22 of the Act	5,000
7	Failure on the part of Foreman in maintaining records as provided under section 24 of the Act	500
8	Failure on the part of Foreman to pay the amount due to defaulting subscribers as provided under section 30 of the Act	1,000
9	Failure on the part of Foreman in depositing future subscriptions realised from the subscribers or withdrawing the same for purposes other than for payment of future subscriptions as provided under Sub-clause (4) of Section 33 of the Act	500
10	Failure on the part of Foreman to comply with the directions contained in an order made under Sub-sections (2) or (3) of Section 46 of the Act	5,000
11	Failure on the part of Foreman to act as provided in Sub-section (5) of Section 61 of the Act	500

S.I. No.	2. Offences punishable under sub-section (2) of section 76 of the Act which are compoundable.	Compounding amount in (₹)
(1)	(2)	(3)
1	Failure on the part of Foreman in;	
	(a) filing with the Registrar a certificate under sub-section (2) of section 10 of the Act within fifteen days after the close of the month in which the draw for the first installment of the chit is held.	1,000
	(b) filing copy of the minutes of proceedings within twenty-one days from the date of the draw to which it relates as provided under section 18 of the Act.	500
	(c) making necessary entries in the subscriber's register regarding removal of a subscriber within fourteen days from the date of removal as provided in sub-section (3) of section 28 of the Act	1,000
	(d) making necessary entries in the subscriber's register regarding substitution of a subscriber within fourteen days from the date of substitution as provided in sub-section (2) of section 29 of the Act.	1,000
	(e) filing with the Registrar within fifteen days a copy of the entry in relevant books regarding transfer of right under sections 34 and 35 read with section 37 of the Act.	1,000
	(f) filing with the Registrar copy of assent as referred to in section 26 or consent as referred to in clause (b) of section 40 of the Act within fourteen days from the date of such assent or consent read with section 41 of the Act.	1,000

(1)	(2)	(3)	"
2	Irregular maintenance of chits records, for each such records;	2,000	
3	Omission on the part of Foreman in issuing to the subscriber's copy of;		
	(a) registered chits agreement as provided under sub-section (1) of section 10 of the Act.	1,000	
	(b) special resolution as provided under sub-section (4) of section 38 of the Act.	1,000	
4	If the Foreman fails to comply with the requirements of the Chit Agreement regarding the date, time and place at which the chit is to be drawn or fails to comply with requirement of any direction given under sub-section (3) of section 38 of the Act.	3,000	
<i>S.I. No.</i>	<i>3. Offences punishable under sub-section (3) of section 76 of the Act which are compoundable.</i>	<i>Compounding amount in (₹)</i>	
	Willfully making any false statement in any document required to be filed under this Act.	5,000	

FORM I

[See sub-rule (3) of rule 65]

APPLICATION FOR COMPOUNDING

Name of the Foreman :

Address :

Contact Number :

e-mail :

To the Deputy Registrar of Chits (Headquarters)/Deputy Registrar of Chits/District Registrar (General)/(Through Assistant Registrar of Chits) *(strike out whichever not applicable)*.

Sir,

*Sub:—*Offence committed under sectionsof the Chit Funds Act, 1982-Application for compounding—Reg.

I am submitting herewith the application for compounding offences with detail of the offences committed by me under the Chit Funds Act, 1982, the offence are compoundable as per the provisions contained in rule 64,65 and 66 read with Appendix III of the Kerala Chit Fund Rules, 2012. Hence it is requested that the offence committed by me may be compounded and necessary orders in this regard may be issued allowing me to remit the compounding amount.

1. Chitty No. (If applicable) :
2. Date of commencement and termination of the chitty :
3. Capital of the Chitty :
4. Number of subscribers :
5. Amount of each subscription :
6. Details of chitty amount given to the subscribers :
7. Future subscriptions to be paid to the subscriber :
8. Offence committed/alleged and reasons thereof :
9. Nature of record filed :
 - (a) Date of origin :
 - (b) Due date of filing :
 - (c) Actual date of filing :
 - (d) Delay in days :

10. In respect of offence under section :
 - (a) Due date of remittance of audit fee :
 - (b) Date of remittance of audit :
 - (c) Delay in days :
 - (d) Date of filing of audited minutes :
11. If the compounding amount is provisionally realized and under which items of the Appendix III amount was realized :
12. The number and date of compounding amount receipt issued to the foreman. :

I/We do hereby admit my/our offences and I/we shall not commit any offences in future. The contraventions may please be pardoned.

Place:

Date:

Name and signature of the Foreman.

Report and Recommendation

Place:

Date:

Assistant Registrar of Chits.

Report and Recommendation

Place:

Date:

*Deputy Registrar of Chits/
District Registrar (General).*

FORM II

[See sub-rule (5) of rule 65]

[on (₹) 100 (Rupees Hundred only) Stamp Paper]

UNDERTAKING

I/WeS/o Shri.....residing at
 having office atbeing the Foreman conducting chitty under
 the name and styleathereby solemnly affirm
 and state as under:

(1) I/We have committed offences/ alleged to have committed offence punishable under section 76 of the Chit Fund Act, 1982 while conducting business of the Chitty firm mentioned above.

(2) It is further declared that I/We am/are not under investigation of any agency. In case any legal proceedings arise in future in terms of conducting the chitty, I/We undertake to inform the same to the Competent Authority.

(3) I/We do hereby admit my/ our offences and I/We shall not commit any offences in future.

(4) I/We will abide by all regulations as stipulated in the Kerala Chit Fund Rules, 2012 and in case of any default of my/our compliance with any of the regulations as laid down therein, the decision of the Competent Authority shall be binding on me/us.

(5) The contraventions may please be pardoned and I/We shall remit the compounding fee as prescribed in rule 64, 65 and 66 read with Appendix III of the Kerala Chit Fund Rules, 2012.

Solemnly affirmed aton thistheday of.....20.....

Witnesses:

(1)

(2) "

By order of the Governor,

P. MARA PANDIYAN,
 Additional Chief Secretary to Government.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport.)

Section 81 of the Chit Funds Act, 1982 (Central Act XL of 1982) provides that any officer empowered by the State Government may either before or after the institution of criminal proceedings, compound any offence under the Act subject to such conditions and amount as may be prescribed. In order to implement the above, Government have decided to make suitable amendment in the Kerala Chit Fund Rules, 2012.

The notification is intended to achieve the above object.