

Kerala Surcharge on Taxes Act, 1957

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Act 11 of 1957

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Kerala Surcharge on Taxes Act, 1957(Kerala Act No. 11 of 1957)Last Updated 16th December, 2019An Act to provide for levy of surcharges on certain taxes.Preamble. - Where as it is considered necessary to increase the taxes on agricultural income, taxes on the sale or purchase of goods and taxes on profession, by the levy of a surcharge on such taxes;Be it enacted in the Eighth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Kerala Surcharge on Taxes Act, 1957.(2)It extends to the whole of the State of Kerala.(3)It shall come into force on such date as the Government may, by notification, in the Gazette, appoint.

2. Levy of surcharge on agricultural income-tax.

- The [Agricultural income tax] [Substituted by 'Income tax or super tax' Act No. 40 of 1976.] payable by any person other than a company assed to such tax under the The Kerala [Agricultural income tax] [Substituted by 'Income tax or super tax' Act No. 40 of 1976.] Act, 1991 shall be increased by a surcharge at the rate of [ten per centum] [Substituted by 'five per centum' Act No. 40 of 1976.] of the tax payable each year, and the provisions of the The Kerala [Agricultural income tax] [Substituted by 'Income tax or super tax' Act No. 40 of 1976.] Act, 1991 shall [apply in relation to the said surcharge as they apply in relation to the [Agricultural income tax] [Substituted by 'apply to the levy and collection of the said surcharge' Act No. 2 of 1966.] payable under the said Act.]Explanation. - In this section, company shall have the same meaning as in the Agricultural Income-tax Act, 1950.

3. Levy of surcharge on sales and purchase taxes.

- [(1) The tax payable under sub-section (1) of section 5 of the Kerala General Sales Tax Act, 1963, by a dealer in foreign liquor shall be increased by a surcharge at the rate of ten per cent, and the provisions of the Kerala General Sales Tax Act 1963 shall apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act.] [Substituted by Act No. 9 of 2000.](1A)The tax payable under sub-sections (1) and (2) of section 6 of the Kerala Value Added Tax Act, 2003 (30 of 2004), other than declared goods as defined in section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall, in the case of national or multi-national companies functioning in the State as retail chains or direct marketing chains who import not less than fifty per cent of their stock from outside the State or country and not less than seventy-five per cent of whose sales are retail business, and whose total turnover exceeds five crore rupees per annum, but excluding such class of dealers of certain commodities, which may be notified by the Government from time to time, be increased by a surcharge at the rate of ten per cent, and the provisions of the Kerala Value Added Tax Act, 2003 (30 of 2004) shall apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act.Explanation I. - For the purpose of this section big retail chains and direct marketing chains mean retail sales outlets or part of retail sales outlets of companies which share a registered business name or commercial name by way of franchisee agreements or otherwise with standardized sales, purchase and promotional activities.Explanation II. - For the purpose of this section 'retail business' shall mean sales to persons other than registered dealers.(1AA)The tax payable under section 6 of the Kerala Value Added Tax Act, 2003 (30 of 2004), shall, with respect to the sale of water, soda, soft drinks, fruit juices and other beverages whether aerated or not, intended for human consumption and sold in containers of plastic but excluding those sold in such containers of and above 20 litres, be increased by a surcharge at the rate of five per cent and the same shall be paid over to the Government and further, the provisions of the Kerala Value Added Tax Act, 2003 (30 of 2004) excluding those related to input tax credit and special rebate shall apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act.(2)Notwithstanding anything contained [in sub-section (1) of section 22 of the Kerala General Sales Tax Act, 1963] [Substituted 'in sub-section (1) of section 11 of the Travancore-Cochin General Sales Tax Act, 1125 or in sub-section (1) of section 8B of the Madras General Sales Tax Act, 1939' by Act No. 2 of 1966.] and in sub-section (1) of section 30 of the Kerala Value Added Tax Act, 2003, no dealer referred to in sub-sections (1), (1A) and (1AA) shall be entitled to collect the surcharge payable under the said sub-sections.(3)[any dealer who collects the surcharge payable under Sub-section (1) , (1A) and (1AA)in contravention of the provisions of Sub-section (2) shall be punishable with fine which may extend to one thousand rupees and no Court below the rank of a Magistrate of the First Class shall try any such offense.] [Inserted by Act No. 2 of 1966.]

3A. [Reduction of arrears in certain cases. [Inserted by Kerala Finance Act No. 5 of 2019, dated 19.7.2019.]

(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 30th

June, 2017, may opt for settling the arrears on payment of the principal amount of the surcharge in arrears by availing a complete reduction of the penalty amount, interest on the surcharge 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 for settling the arrears under this section.(4)All arrears including surcharge 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 option to the assessing authority on or before 30th September, 2019:Provided that with respect to demands generated after 30th September, 2019, the option may be filed within 30 days from the date of the receipt of the order and in such cases the final payment of surcharge and other amounts due as per this section shall be completed on or before 31st March, 2020.(6)The arrears for the purpose of settlement under this section shall be calculated as on the date of submission of option.(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 dealer under sub-section (1), and shall intimate the same to the dealer, and thereupon the dealer shall remit the amount in a maximum of six instalments on or before 31st March, 2020.(8)Notwithstanding anything contained in this Act, if an assessee who opts to settle his arrears under sub-section (1) has remitted or deposited any amount relating to the arrears after the service of demand notice, such amounts shall be given credit as surcharge under this option and the assessee shall furnish the proof of payments made in this regard:Provided that, any amount paid towards penalty or its interest shall not be credited towards surcharge.(9)There shall not be any refund or any adjustment subsequently for the amount settled under this scheme, under any circumstances.]

4. Penalty for illegal collection of surcharge.

(1)If any person collects any sum by way of surcharge or purporting to be by way of surcharge in contravention of sub-section (2) of section 3, he shall be liable to pay penalty not exceeding five thousand rupees and any sum so collected by the person shall be liable to be forfeited to the Government by an order issued by the assessing authority after giving such person an opportunity to show cause why penalty or forfeiture shall not be ordered:Provided that no penalty or forfeiture shall be ordered under this sub-section if the assessing authority is satisfied that the sum so collected has been returned to the person from whom it was collected.(2)Where any sum is forfeited to the Government under sub-section (1) if any person from whom the amount was collected in contravention of the provisions of sub-section (2) of section 3 may apply to the assessing authority for reimbursement of such sum and the amount shall be reimbursed to such person and the procedure prescribed for reimbursement of the tax forfeited under sub-section (1) of section 46A of the Kerala General Sales Tax Act 1963 (15 of 1963) shall mutatis mutandis apply to such reimbursement.(3)No prosecution for an offence under sub-section (3) of section 3 shall be instituted in respect of the same facts one which a penalty has been imposed or forfeiture has been

ordered under this section.

5. Local authority to make over the surcharge collected to Government.

- The local authority concerned shall make over to the Government the surcharge so collected in such manner and subject to such deductions towards the cost of collections as the Government may, from time to time, by rules prescribe.

6. Removal of difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

7. Power to make rules.

- The Government may, by notification in the Gazette make rules for carrying out the purposes of this Act.

8. Amendment to the Madras Elementary Education Act, 1920.

(1)The Chapter III (sections 32 to 40, both inclusive) of the Madras Elementary Education Act, 1920, as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, shall be omitted.(2)As soon as may be after the commencement of this Act, the elementary education fund constituted for each local authority under the said Act shall be transferred to the Government by such local authority and the same shall vest in the Government free of all trusts, liabilities and encumbrances. Thereupon it shall be competent for the Government to utilize the said fund in such manner as they may deem fit.