



KERALA GAZETTE
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GOVERNMENT OF KERALA
Law (Legislation-A) Department

NOTIFICATION

No. 13271/Leg. A2/2005/Law. Dated, *Thiruvananthapuram,* 28th-August, 2005
6th Bhadra, 1927.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 28th day of August, 2005.

By order of the Governor,

M. JEHANGEER,

Special Secretary (Law) (in-charge).

ACT 40 OF 2005

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 2005

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.—WHEREAS, it is expedient further to amend the Kerala General Sales Tax Act, 1963 for the purposes hereinafter appearing;

BE it enacted in the Fifty-sixth year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 2005.

(2) It shall be deemed to have come into force on the 1st day of April, 2005.

2. *Amendment of section 2.*—After clause (vii) of section 2 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), the following clause shall be inserted, namely:—

“(vii A) “Commissioner” means the Commissioner of Commercial Taxes appointed as such by the Government.”

3. *Amendment of section 5.*—In the principal Act, in sub-section (1) of section 5,—

(a) in clause (a) for the words “Aviation turbine fuel, diesel and petrol”, the words “petroleum products falling under Sl. No. 1 of the Schedule” shall be substituted;

(b) in the Explanation, for the words “Bharath Petroleum” the words “Bharath Petroleum Corporation Ltd.” shall be substituted.

4. *Insertion of section 7.*—In the principal Act, after section 6, the following section shall be inserted, namely:—

“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 three star hotel, heritage hotel or club, may, at its option, instead of paying turnover tax on liquor in accordance with the provisions of the said sub-section, pay turnover tax at the rate specified under the said sub-section on the turnover of foreign liquor calculated at the following percentage of the purchase price of such liquor, namely:—

(a) in the case of those situated within the area of a municipal corporation or municipal council or a cantonment	One hundred and forty per cent
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- (b) in the case of those situated in any other place one hundred and thirty five per cent.”

5. *Amendment of section 17A.*—In the principal Act, for section 17A, the following section shall be substituted, namely:—

“17A. *Self Assessment.*—Notwithstanding anything contained in section 17, where the return submitted under the said section by any dealer, other than a dealer licenced under the Foreign Liquor Rules to serve liquor falling under the Schedule to this Act, is in the prescribed manner and accompanied, by the prescribed documents, the return shall, subject to the provisions of sections 18 and 19 be deemed to have been accepted as and when the assessing authority acknowledges the receipt of the return in such manner as may be prescribed.”

6. *Amendment of section 18.*—In the principal Act, for section 18, the following section shall be substituted, namely:—

“18. *Visit to dealer's premises and audit of accounts and other records by designated officers and audit assessment.*—(1) The Commissioner may designate any officer not below the rank of a Deputy Commissioner to conduct audit visit at the business place of any dealer and to audit the books of accounts, any other records or stock statements and goods relating to the business, either by himself or through audit officers, following such procedures as may be prescribed.

(2) Notwithstanding anything contained in any other provisions of this Act, if any dealer,—

(a) is found on audit of his books of accounts, other records or otherwise to have submitted incorrect or incomplete return for any period; or

(b) fails to make available any accounts or other accounts or other records required by the designated officer or audit officer for audit in the business place of the dealer;

(c) fails to prove the claim of any exemption or reduction in rate of tax claimed by him in the return, the audit officer or other officer authorised by the designated officer, may, after conducting such enquiry as he may deem necessary, reject the return and complete the assessments to the best of his judgment.

(3) Notwithstanding anything contained in sub-section (2), the designated officer may, on his own motion or on a reference being made to him by the assessing authority or on application by the assessee, call for and examine the records of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason, it is necessary so to do, he may issue such directions as he thinks fit for the guidance of the assessing authority to enable him to complete the assessment, and such directions shall be binding on the assessing authority:

Provided that no direction which is prejudicial to the assessee shall be issued before an opportunity is given to the assessee of being heard.”