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No. 3877

GOVERNMENT OF KERALA

Taxes (B) Department

NOTIFICATION

G.O.(P) No.158/2023/TAXES.

Dated, Thiruvananthapuram, 28th November, 2023.

12th Vrischikam, 1199.

S. R. O. No. 1284/2023

In exercise of the powers conferred by sub-section (1) of section 14 of the Kerala Finance Act, 2019 (Act 5 of 2019), the Government of Kerala having considered it necessary in the public interest so to do, hereby make the following rules further to amend the Kerala Flood Cess Rules, 2019 issued by notification under G.O.(P) No.80/2019/TAXES dated 25th day of May, 2019 and published as



S.R.O. No.359/2019 in the Kerala Gazette Extraordinary No.1240 dated 25th May, 2019, namely:-

RULES

1. *Short title and commencement.*— (1) These rules may be called the Kerala Flood Cess (Amendment) Rules, 2023.

(2) They shall be deemed to have come into force on the 1st day of August, 2019.

2. *Amendment of the Rules.*- In the Kerala Flood Cess Rules, 2019, —

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

“3A. Refund of Kerala Flood Cess. — (1) A registered person claiming refund of any amount of Kerala Flood Cess paid in the circumstances mentioned under sub-rule (6) of rule 3 may claim such refund in form **KFC RFD-1** before the expiry of two years from the last day of the financial year in which such supply was made or before the expiry of two years from the date of notification of this rule, whichever is later. The application shall be prepared in the manner specified in sub-rule (12) and shall be furnished before the proper officer;

Explanation: For the purpose of this rule, “Proper Officer” shall be an officer not below the rank of a State Tax Officer in case of application submitted before the officers of the State Tax and not below the rank of an Assistant Commissioner of Central Tax in case of application furnished before the officers of Central Tax.

(2) The proper officer shall, within a period of fifteen days of filing the said application, scrutinize the application for its completeness, and where the application is found to be complete, an acknowledgment of the receipt of the same shall be made available to the applicant in form **KFC RFD-2**;

(3) Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in Form **KFC RFD-3**, requiring him to file a fresh refund application after rectification of such deficiencies:

Provided that the time period from the date of filing of the refund claim in form **KFC RFD-1** till the date of communication of the deficiencies in form **KFC RFD-3** by the proper officer shall be excluded from the period of two years as specified under



sub-rule (1) in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.

(4) Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in form **KFC RFD-8** to the applicant, requiring him to furnish a reply in form **KFC RFD-9** within a period of fifteen days of the receipt of such notice, and after considering the reply, make an order in form **KFC RFD-6** sanctioning the amount of refund in whole or part or rejecting the said refund claim, and the said order shall be made available to the applicant. The notice in form **KFC RFD-8**, reply in form **KFC RFD-9** and order in form **KFC RFD-6** shall be prepared in the manner specified in sub-rule (12):

Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.

(5) Where any refund is due to a registered person who has defaulted in furnishing any return in form **KFC-A** or **KFC-A1** or who is required to pay Kerala Flood Cess, interest, or penalty, which has not been stayed by any court, tribunal or Appellate Authority by the date of filing application in form **KFC RFD-1**, the proper officer may, —

- (a) withhold payment of refund by passing an order in Part A of FORM **KFC RFD-7** informing him of the reasons for withholding such refund until the said person has furnished the return or paid the Kerala Flood Cess, interest, or penalty, as the case may be;
- (b) deduct from the refund due, any Kerala Flood Cess, interest, penalty, fee, or any other amount which the person is liable to pay but which remains unpaid under this rules.

Provided that where the proper officer is satisfied that the refund is no longer liable to be withheld, he may pass an order for release of the withheld refund in Part B of Form **KFC RFD-7**.



(6) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under Section 14 of the Kerala Finance Act, 2019 are pending and the concerned Joint Commissioner of State Tax/Jurisdictional Commissioner of Central Tax is of the opinion that grant of such a refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the applicant an opportunity to be heard, withhold payment of the refund by passing an order in **Part A** of Form **KFC RFD- 7** informing him the reasons for withholding of such refund until such time as he may determine:

Provided that where the officer is satisfied that the refund is no longer liable to be withheld, he may pass an order for release of the withheld refund in Part B of Form **KFC RFD-7**.

(7) If the proper officer is satisfied that the whole or part of the amount claimed as refund is due and payable to the applicant, he shall make an order in form **KFC RFD-6** sanctioning the amount of refund to which the applicant is entitled, mentioning therein the amount, if any, refunded to him, and issue a payment order in form **KFC RFD-5** within sixty days from the date of receipt of the application, complete in all respects. The order in form **KFC RFD-6** and payment order in the form **KFC RFD-5** shall be prepared in the manner specified in sub-rule (12):

Provided that there shall be no provisional refund of Kerala Flood Cess.

(8) In cases where the application for refund is processed by the officers of Central Tax, the order in form **KFC RFD-6** along with the payment order in form **KFC RFD-5** shall be forwarded to the concerned Joint Commissioner of State Tax of the Taxpayer Services Formations for disbursal of refund;

(9) Notwithstanding anything contained in this rule, no refund under this rule shall be paid to an applicant if the amount is less than five hundred rupees;

(10) (i) If any cess ordered to be refunded under sub-rule (4) to any applicant is not



refunded within sixty days from the date of receipt of application under sub-rule (1) or date of notification of this rule, whichever is later, interest at the rate of six percent shall be payable in respect of such refund for the period of delay beyond sixty days from the date of receipt of such application or date of notification of this rule, whichever is later, till the date of refund of such cess:

Provided that where any claim of refund arises from an order passed by an adjudicating authority, appellate authority, appellate tribunal, or court that has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order or date of notification of this rule, whichever is later, interest at a rate of nine percent shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application in form **KFC RFD-1** by the proper officer referred to in sub-rule (1) or date of notification of this rule, whichever is later, till the date of refund.

Explanation: — (a) For the purposes of this rule, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-rule (1), the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-rule (4).

(ii) The following periods shall not be included in the period of delay under clause (i), namely: -

(a) any period of time beyond fifteen days of receipt of notice in Form **KFC RFD- 8** under sub-rule (4), that the applicant takes to-

(i) furnish a reply in Form **KFC RFD-9**, or

(ii) submit additional documents or reply;

and

(b) any period of time taken either by the applicant for furnishing the correct details of the bank account to which the refund is to be credited or for validating the details of the bank account so furnished, where the amount of refund sanctioned could not be credited to the bank account furnished by the applicant.



(11) Where any interest is due and payable to the applicant under sub- rule (10), the proper officer shall make an order along with a payment order in form **KFC RFD-5**, specifying therein the amount of refund that is delayed, the period of delay for which interest is payable, and the amount of interest payable;

(12) The forms prescribed in respect of any process or procedure prescribed in this rule shall be filed or issued, as the case may be, manually.

(13) The Commissioner may, by an order, specify the procedures, if any, to be followed by the persons claiming refund under sub-rule (1) and the manner of disposal of application of refund by the Proper Officers.”.

(2) in rule 4, after the words “proper officers for the purpose of”, the words and figure “ rule 3A of this rules and”, shall be inserted.

(3) after form KFC-AAA, the following forms shall be inserted, namely,-

“KFC RFD-1

[See rule 3A (1)]

Application for Refund of Kerala Flood Cess

1. GSTIN :

2. Name :

3. Address :

4. Tax period from

MM	YYYY
----	------

 To

MM	YYYY
----	------

5. Amount of refund claimed :

1	Kerala Flood cess	
2	Interest	
3	Penalty	
4	Total	

6. Grounds of refund Claim. (Mark whichever is applicable.)



- (i) flood cess collected from a recipient of goods or services for which flood cess was not leviable;
- (ii) flood cess collected and paid, but the corresponding supply has not been completed;
- (iii) multiple e-payments of same flood cess due amounts made along with return due to technical defects in the treasury payment gateway;
- (iv) Refund on account of appeal.

7. If the application of refund is filed on account of appeal,-

(a) Order No.

(b) Date

8. Details of Bank Account as per registration data provided in GSTIN

1	Name of Bank	
2	Address of Branch	
3.	IFSC	
4.	Type of Account	
5.	Account No.	

UNDERTAKING

I hereby undertake to pay back to the Government the amount of refund sanctioned along with interest in case it is found subsequently that the information furnished by the undersigned is found false/incorrect in subsequent verification.

Place

Signature

Date

Name

Designation /Status

KFC RFD-2

[See rule 3A (2)]

Acknowledgement

Acknowledgement No.

Date: DD/MM/YYYY



To

Name of the applicant

GSTIN

Your application dated for refund of an amount of Rs..... under sub-rule (1) of rule 3A of the Kerala Flood Cess Rules, 2019 is hereby acknowledged.

Place

Date

Signature

Name and Designation

Office address

KFC RFD-3

[See rule 3A (3)]

Deficiency Memo

Date: DD/MM/YYYY

To

Name of the applicant

GSTIN

Sir/Madam,

Subject: Refund Application Dated..... - Reg.

This has reference to your above-mentioned application filed under sub- rule (1) of rule 3A of the Kerala Flood Cess Rules, 2019. Upon scrutiny of your application, certain deficiencies have been noticed as detailed below:

1.

2.

You are advised to file a fresh refund application after rectification of above deficiencies.

Place

Date

Signature

Name and Designation

Office address



KFC RFD-5

[See rule 3A (7)]

Refund Payment Order

Payment order No.

DD/MM/YYYY

To

Treasury

Refund Sanction Order No.

Order Date... DD/MM/YYYY

GSTIN:

Name:

Refund Amount (As per order):

Description	Kerala Flood Cess	Interest	Penalty	Total
Net Refund amount sanctioned				

Details of Bank Account.

1.	Name of Bank	
2.	Address of Branch	
3.	IFSC	
4.	Type of Account	
5.	Account No.	

Place

Signature

Date

Name and Designation

Office address

KFC RFD-6

[See rule 3A (4)]

Refund Sanction/Rejection Order

To

Name of the applicant

Address

GSTIN



Sir/Madam,

Ref: Refund Application Dated.....

This has reference to your application for refund filed under sub-rule (1) of rule 3A of the Kerala Flood Cess Rules, 2019. Upon examination of your application, the amount of refund sanctioned to you, after adjustment of dues (where applicable) is as follows:

Description	Kerala Flood Cess	Interest	Penalty
1. Amount of refund claimed			
2. Refund amount inadmissible			
3. Gross amount to be paid (1-2)			
4. Amount adjusted against outstanding demand (if any)			
5. Net amount to be paid			

1. I hereby sanction an amount of Rs. to M/s. having GSTIN..... under sub-rule (7) of rule 3A of the Kerala Flood Cess Rules, 2019,

- and the amount is to be paid to the bank account specified by him in his application;
- the amount is to be adjusted towards recovery of arrears as specified at serial number 4 of the Table above;
- an amount of rupees is to be adjusted towards recovery of arrears as specified at serial number 4 of the table above and the remaining amount ofrupees is to be paid to the bank account specified by him in his application dated.

2. I hereby reject an amount of Rs. to M/s..... having GSTIN under sub-rule (4) of rule 3A of the Kerala Flood Cess Rules, 2019.

Place

Date

Signature

Name and Designation

Office address



KFC RFD-7
[Sub-rule (5) and (6) of rule 3A]
Refund withholding Order

Ref No.

DD/MM/YYYY

To

Name of the applicant

Address, GSTIN

Sir/Madam,

Ref: KFC RFD-6 dated.....

Part A

Refund payable to the taxpayer with respect to KFC RFD-6 specified above are hereby withheld in accordance with sub-rule (5)/sub-rule (6) of rule 3A of the Kerala Flood Cess Rules, 2019. The reasons for withholding are given as under:

Sl. No.	Particulars	
1.	Amount of refund claimed in KFC RFD-1	
2.	Refund amount inadmissible in KFC RFD-6	
3.	Amount adjusted as per KFC RFD-6	
4.	Gross amount to be paid (1- (2+3))	
5.	Amount withheld	
6.	Reason for withholding	

Place

Signature

Date

Name and Designation

Part B

This has reference to your refund application dated against which the payment of refund amount sanctioned vide order in RFD-6, dated was withheld by KFC RFD-7 No. dated..... It has been now found to my satisfaction that the conditions for withholding



of refund no longer exist and therefore, the refund amount withheld is hereby allowed to be released as given under:

Sl. No.	Particulars	
1.	Amount of refund claimed	
2.	Refund amount inadmissible in KFC RFD-6	
3.	Amount adjusted as per KFC RFD-6	
4.	Gross amount to be paid (1-(2+3))	
5.	Amount withheld in KFC RFD-7	
6.	Amount released	

Place

Signature

Date

Name and Designation

KFC RFD-8

[see rule 3A (4)]

Notice for rejection of application for refund

SCN No.

DD/MM/YYYY

To

Name of the applicant

Address

GSTIN

Acknowledge No.

Sir/Madam,

Ref: KFC RFD-1 dated.....

This has reference to your above-mentioned application for refund, filed under sub-rule (1) of rule 3A of Kerala Flood Cess Rules, 2019. On examination, it appears that refund application is liable to be rejected on account of the following reasons:



Sl. No.	Description	Amount Inadmissible
1.		
2.		
3.		

You are hereby called upon to show cause as to why your refund claim, to the extent of the amount specified above, should not be rejected for reasons stated above.

You are hereby directed to furnish a reply to this notice in form KFC RFD-9 within fifteen days from the date of service of this notice. You are also directed to appear before the undersigned on (date) at (time).

If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merit.

Place

Date

Signature

Name and Designation

Office address

KFC RFD-9

[See rule 3A (4)]

Reply to show cause notice

DD/MM/YYYY

1.	Reference No. of show cause notice		Date of issue	
2.	GSTIN			
3.	Name of business (Legal)			
4.	Reply to the notice			
5.	Details of Supporting documents, if any, uploaded.			



6.	<p>Verification</p> <p>I ----- hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.</p>
----	---

Place

Signature of Authorised Signatory

Date

Name

Designation/Status"

By order of the Governor,
Dr. A. JAYATHILAK,
Additional Chief Secretary to Government.

Explanatory Note

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

In the wake of the unprecedented flood in 2018, the Government of Kerala implemented Kerala Flood Cess w.e.f. 1st August, 2019 for two years for the purpose of providing reconstruction, rehabilitation and compensation needs which had arisen due to the massive flood. Now the Government have decided to refund any amount of Kerala Flood Cess paid under the circumstances mentioned in sub-rule (6) of rule 3 of Kerala Flood Cess Rules, 2019. Hence the rule amended suitably.

The notification is intended to achieve the above object.

