



കേരള ഗസറ്റ് KERALA GAZETTE

അസാധാരണം EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
PUBLISHED BY AUTHORITY

വാല്യം 13
Vol. XIII

തിരുവനന്തപുരം,
തിങ്കൾ

Thiruvananthapuram,
Monday

2024 ജൂലൈ 29
29th July 2024

1199 കർക്കടകം 14
14th Karkadakam 1199

1946 ശ്രാവണം 7
7th Sravana 1946

നമ്പർ
No.

2447

GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 8/Leg. A2/2024/Law.

Dated, Thiruvananthapuram, 28th July, 2024

13th Karkadakam, 1199

6th Sravana, 1946.

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 27 day of July, 2024.

By order of the Governor,

K. G. SANAL KUMAR,
Law Secretary.



(d) in entry (iii), in column (3), for the figure “4000”, the figure “3000” shall be substituted;

(ii) in sub-item (f), for the words, symbol and brackets “sub-sections (8) and (9)”, the words, symbol and brackets “sub-section (8)” shall be substituted.

CHAPTER III
AMNESTY SCHEME, 2024

6. *Definitions.*—(1) In this Chapter, unless the context otherwise requires,—

(a) “admitted tax” means the arrears of tax or surcharge payable as per the returns, books of accounts, tax or surcharge assessed by the assessing authority under the relevant Act, but does not include disputed tax or disputed surcharge:

Provided that in the case where the evidence, details and records pertaining to the penalty levied under the relevant Act are not utilized or not liable to be utilized for any best judgment assessment under the relevant Act, the tax or surcharge demand relating to such penalty shall be deemed to be the admitted tax, but does not include disputed tax or disputed surcharge;

(b) “amount payable” means the amount payable by an applicant for settling the arrears of tax, surcharge, interest or penalty under the provisions of the scheme;

(c) “amount waived” means the amount that is not required to be paid by an applicant, and has been forgone from being arrears of tax, surcharge, interest or penalty by the Government as a part of settling the arrears of tax, interest, surcharge or penalty under the provisions of the scheme;

(d) “applicant” means a dealer or any person who is liable to pay tax, surcharge, penalty or interest under the relevant Act;

(e) (i) “arrears of tax or surcharge” means the tax or surcharge payable by an applicant under the relevant Act in a specified order, pertaining to the assessment years up to 2017-2018, for which assessment or reassessment has been made under the relevant Act and pending collection on the date of filing of the application under the scheme;

(ii) “arrears of interest” means the interest payable by an applicant under the relevant Act in a specified order, pertaining to the assessment years up to 2017-2018, for



which assessment or reassessment has been made under the relevant Act and pending collection on the date of filing of the application under the scheme;

(iii) “arrears of penalty” means the penalty payable by an applicant under the relevant Act in a specified order, pertaining to the assessment years up to 2017-2018, for which assessment or reassessment has been made under the relevant Act and pending collection on the date of filing of application under the scheme:

Provided that any amount on which stay has been granted by any authority, tribunal or court, as on the date of commencement of the scheme shall also be treated as an amount pending collection.

Explanation I:—For the purpose of the scheme, the term “reassessment” shall include the fresh assessment of remanded cases, modification of assessment orders and rectification of assessment orders under the relevant Act.

Explanation II:—The tax, surcharge, interest and penalty amount as per the demand notice shall be treated as the amount pending collection even if the applicant has made payment or deposit in part, if any, after the service of the demand notice.

Illustration I:

- *The showcause notice to an applicant was for an amount of tax/surcharge of Rs.1000 and an amount of penalty of Rs.100.*
- *The order was for an amount of tax/surcharge of Rs.1000 and an amount of penalty of Rs.100.*
- *The applicant files an appeal against this order.*
- *The arrears of tax or surcharge in this case is Rs.1000.*

Illustration II:

- *The showcause notice to an applicant was for an amount of tax/surcharge of Rs.1000 and an amount of penalty of Rs. 100.*
- *The order was for an amount of tax/surcharge of Rs. 900 and a penalty of Rs. 90.*



- *The applicant files an appeal against this order.*
- *The arrears of tax or surcharge in this case is Rs. 900.*

Illustration III:

- *The showcause notice to an applicant was for an amount of tax/surcharge of Rs. 1000 and an amount of penalty of Rs. 500.*
- *The order was for an amount of tax/surcharge of Rs. 1000 and a penalty of Rs. 500.*
- *After reassessment, the amount of tax/surcharge becomes Rs. 800 and the penalty becomes Rs. 300.*
- *A payment for an amount of Rs. 500 towards tax/surcharge and an amount of Rs. 200 towards penalty was made after reassessment.*
- *The arrears of tax or surcharge in this case is Rs. 800 and the arrears of penalty is Rs. 300;*

(f) “certificate of settlement” means a certificate issued under the scheme for settlement of arrears of tax, surcharge, interest or penalty in a specified order under the relevant Act;

(g) “Commissioner of State Tax” means the Commissioner of State Tax appointed under section 3 of the Kerala State Goods and Services Tax Act, 2017 (20 of 2017);

(h) “designated authority” means an authority appointed under section 7 of this Act;

(i) “disputed tax” means the arrears of tax or surcharge against which appeal, revision or review is pending before any authority, tribunal or court, as on the date of commencement of the scheme:

Provided that in the case where the evidence, details and records pertaining to the penalty levied are not utilized or not liable to be utilized for any best judgment assessment under the relevant Act, and against the imposition of such penalty, an appeal, revision or review is pending before any authority, tribunal or court, as on the date of commencement of the scheme, the tax or surcharge demand relating to such penalty shall be deemed to be the disputed tax or disputed surcharge;



(j) “Government” means the Government of Kerala;

(k) “interest accrued at the time of payment” means the amount of interest, which is not specified in the order, but has accrued in the intervening period between the date of order and the date of final settlement of the arrear;

(l) “notification” means notification published in the Official Gazette of the Government;

(m) “prescribed” means prescribed by rules made under this Act;

(n) “relevant Act” means,—

(i) the Kerala Surcharge on Taxes Act, 1957 (11 of 1957);

(ii) the Kerala General Sales Tax Act, 1963 (15 of 1963);

(iii) the repealed Kerala Tax on Luxuries Act, 1976 (32 of 1976);

(iv) the repealed Kerala Agricultural Income Tax Act, 1991 (15 of 1991);

(v) the repealed Kerala Value Added Tax Act, 2003 (30 of 2004);

(vi) the Central Sales Tax Act, 1956 (Central Act 74 of 1956);

(o) “scheme or amnesty scheme, 2024” means the scheme under this chapter;

(p) “specified order” means any order raising demand of tax, surcharge, interest or penalty under the relevant Act.

(2) Words and expressions not defined in this Chapter, but defined in the relevant Act, shall have the same meaning as assigned to them in those Acts.

7. *Designated authority.*—For carrying out the purposes of the scheme, the Commissioner of State Tax may, by an order, appoint one or more officers or a committee of officers referred to in section 3 of the Kerala State Goods and Services Tax Act, 2017 (20 of 2017) to be the designated authority and such authority shall exercise jurisdiction over such area or areas as the Commissioner of State Tax may specify:



Provided that in cases of difference of opinion among the members of the designated authority regarding any decision or order, the majority opinion shall prevail.

8. *Eligibility for settlement.*—(1) Subject to the other provisions of the scheme, an applicant is eligible to make an application for settlement of arrears of tax, surcharge, interest or penalty pertaining to the assessment years upto 2017-2018, against which an appeal, revision or review is not pending before any authority or tribunal under the relevant Act, or any court on the date of filing of application:

Provided that in cases where any appeal, revision or review, is pending before any authority or tribunal under the relevant Act or any court on the date of commencement of the scheme, application for settlement of arrears shall be made along with a copy of leave to withdraw granted by the authority or tribunal or court, as the case may be:

Provided further that in cases where any appeal filed by the Government is pending before any Appellate Authority, Appellate Tribunal under the relevant Act or any court as on the date of commencement of the scheme, the application referred to in sub-section (1) of section 9 shall be made treating the amount in the original specified order as the arrears of tax, surcharge, interest or penalty. The designated authority shall, on receipt of such application, seek for an adjournment of these cases to the Appellate Authority, Appellate Tribunal under the relevant Act or the court until the intimation regarding the disposal of such cases.

(2) Notwithstanding anything contained in the scheme, the provisions of the scheme shall not be applicable to any arrears of tax, interest or penalty payable by a dealer under the provisions of clause (b) of sub-section (1) and sub-section (2) of section 5 or section 7 of the Kerala General Sales Tax Act, 1963 (15 of 1963).

9. *Application for settlement.*—(1) An application for the purpose of section 8 shall be made to the designated authority within sixty days from the date of commencement of the scheme, in such form and such manner as may be prescribed, along with proof of payment of the amount at the rates specified in section 11.

(2) The time limit under sub-section (1) may be extended by a further period, not later than the 31st day of December, 2024 by recalculating the amount payable as specified in sub-section (4) of section 11.



(3) In case where a decision or orders of the Appellate Authority, Revisional Authority or an Appellate Tribunal or judgment of a court causing modification of the specified orders is pending to be finalised, such applicant shall be eligible to apply under sub-section (1) without making any payment, and the amount payable in those cases shall be paid within sixty days from the date of service of such modified orders.

(4) A separate application shall be made for each specified order.

10. *Determination of the amount payable by the applicant.*—(1) The designated authority shall verify the correctness of the particulars furnished in the application made under section 9 with reference to all relevant records and determine the amount payable at such rates and in such manner, as specified in section 11 read with section 9.

(2) The designated authority shall demand the amount short paid by the applicant with reference to the amount in sub-sections (1), (2) and (3) of section 9 in such form and manner as may be prescribed.

(3) The demand under sub-section (2) shall be paid by the applicant within sixty days of receipt of the form referred to in sub-section (2), failing which such short paid amount shall be recalculated by way of a reduction in the amount waived, in such manner as may be notified by the Government.

(4) The amount determined under the provisions of this section shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, and, if such part is fifty paise or more, it shall be rounded off to the nearest rupee, and if such part is less than fifty paise, it shall be ignored.

11. *Rate applicable in determining the amount payable.*—(1) The amount payable by the applicant and the amount waived shall be determined as follows:—

(a) where the arrears of tax or surcharge in a specified order is above rupees fifty thousand and upto rupees ten lakhs on the date of application for settlement under the scheme, the amount payable shall be thirty percentage of such arrears of tax or surcharge, and on payment of the amount payable by the applicant, the remaining arrears of tax, surcharge, interest or penalty payable under that specified order shall be the amount waived;



(b) where the arrears of tax or surcharge in a specified order is above rupees ten lakh and upto rupees one crore on the date of application referred to in sub-section (1) of section 9,—

(i) the amount payable by the applicant for the settlement of the admitted tax shall be fifty percentage of the arrears of tax or surcharge, and on payment of such amount, the remaining arrears of tax, surcharge, interest or penalty payable under the relevant Act shall be the amount waived;

(ii) the amount payable by the applicant for the settlement of the disputed tax shall be forty percentage of the arrears of tax or surcharge, and on payment of such amount, the remaining arrears of tax, surcharge, interest or penalty payable under the relevant Act shall be the amount waived;

(c) where the arrears of tax or surcharge in a specified order is above rupees one crore on the date of application under the scheme,—

(i) the amount payable by the applicant for the settlement of the admitted tax shall be eighty percentage of the arrears of tax or surcharge, and on payment of such amount, the remaining arrears of tax, surcharge, interest or penalty payable under the relevant Act shall be the amount waived;

(ii) the amount payable by the applicant for the settlement of the disputed tax shall be seventy percentage of the arrears of tax or surcharge, and on payment of such amount, the remaining arrears of tax, surcharge, interest or penalty payable under the relevant Act shall be the amount waived:

Provided that, in the case where the evidence, details and records pertaining to the penalty levied are not utilized or not liable to be utilized for any best judgment assessment under the relevant Act, the tax or surcharge demand relating to such penalty shall be deemed to be the arrears of tax or surcharge, and the amount payable shall be calculated accordingly.

(2) Notwithstanding anything contained in the scheme, if an applicant has remitted or deposited any amount towards the demand in the specified order, or if any amount or its equivalent has been recovered as part of arrear recovery towards the demand in the specified order, such amount already received by the Government shall be deducted from the amount



payable, and the applicant shall, along with the application, furnish the proof of payments made in this regard:

Provided that any amount paid towards the penalty or interest shall be appropriated towards the amount payable.

(3) Notwithstanding anything contained in the relevant Act, interest accrued at the time of payment of amount payable under the scheme, shall also stand waived.

(4) The amount payable by an applicant for applying under the scheme under subsection (2) of section 9 shall be calculated in such manner as may be notified by the Government.

12. *Total waiver of certain amounts.*—Notwithstanding anything contained in the relevant Act or the scheme, where on the date of commencement of the scheme, the arrears of tax or surcharge in a specified order is rupees fifty thousand or less, the entire amount of arrears of tax, surcharge, interest or penalty under that specified order shall be the amount waived:

Provided that, in the case where the evidence, details and records pertaining to the penalty levied are not utilized or not liable to be utilized for any best judgment assessment under the relevant Act and if the tax or surcharge relating to such penalty is rupees fifty thousand or less, such tax or surcharge shall be deemed to be the arrears of tax or surcharge for the purpose of this section.

13. *Restrictions.*—(1) Notwithstanding anything contained in the relevant Act, no arrears of tax, surcharge, interest or penalty payable under the scheme shall be,—

- (a) paid through the input tax credit available under any law;
- (b) adjusted against any excess amount; or
- (c) refunded

under any circumstances.

Illustration: A dealer has an arrear X of tax amounting to Rs. 2 lakhs for a year, and an arrear Y of tax amounting to Rs. 1 Lakh for another year. He has already paid Rs. 1.5 Lakhs towards arrear X, but has not paid any amount towards arrear Y. The amount payable to settle



the arrear X under the scheme is Rs. 60,000. If the dealer applies for settlement under the scheme, the arrear X shall stand settled, but the amount in excess of Rs. 60,000 which is already paid by the dealer, i.e., Rs. 90,000 will not be eligible for consideration towards settling arrear Y.

14. *Settlement of arrears and issue of certificate.*—(1) The designated authority shall, on being satisfied with the payment of the amount determined under sub-section (1) of section 10, by an order, settle the arrears of tax, surcharge, interest or penalty and issue a certificate of settlement in such form and manner as may be prescribed, and thereupon, the applicant shall be discharged from his liability to make payment of such arrears of tax, surcharge, interest or penalty. In respect of each application separate order and certificate of settlement shall be issued:

Provided that in cases where a certificate of settlement is issued and the appeal filed by the Government is pending before any authority, tribunal or court, the Government shall withdraw the appeal forthwith.

(2) In cases where,—

(a) the arrears of tax or surcharge is rupees fifty thousand or less; or

(b) the amount payable under the scheme in relation to a specified order is less than the amount received by the Government by way of any remittance or deposit made by the applicant towards the demand in the specified order, or if any amount or its equivalent has been recovered as part of arrear recovery towards the demand in the specified order;

the designated authority shall *suo moto* issue a certificate of settlement under sub-section (1) or sub-section (2) even if the application referred to in sub-section (1) of section 9 is not submitted.

(3) The designated authority may, at any time within ninety days from the date of issue of the certificate and order under sub-section (1), modify the same by rectifying any error apparent on the face of the record:

Provided that no such rectification adversely affecting the applicant shall be made without giving the applicant a reasonable opportunity to show cause against such rectification.



(4) In case the certificate is not issued under the scheme due to non-payment or short payment of amounts payable under the scheme, then any amount paid by the applicant as a part of the scheme shall be treated as a payment made towards the arrears in the specified order as per the provisions of the relevant Act.

15. *Refusal of settlement of arrears.*—The designated authority on receipt of the application referred to in section 9 may, for reason other than short payment of amounts as required under the scheme, refuse to settle the arrears of tax, surcharge, interest or penalty in such form and manner as may be prescribed:

Provided that no order under this sub-section shall be passed without giving the applicant a reasonable opportunity to show cause against such refusal.

16. *Appeal.*—Any person aggrieved by an order passed under section 10, sub-section (3) of section 14 or section 15 may prefer an appeal to an officer not below the rank of Joint Commissioner of State Tax as the Commissioner may, by notification, specify in this behalf. The said officer shall dispose off the appeal, either by,—

- (i) confirming the order of the designated authority; or
- (ii) by allowing the appeal of the applicant; or
- (iii) by modifying the order of the designated authority; or
- (iv) set aside the order of the designated authority and direct the designated authority to pass a fresh settlement order, after further enquiry:

Provided that in case the appeal of the applicant is allowed or the order of the designated authority is modified by the appellate authority under this section, the designated authority shall issue the certificate of settlement subject to payment of the amount payable:

Provided further that the time limit for making payment after the issuance of such order of the appellate authority shall be the time limit as applicable for an order under sub-section (2) of section 10 as if the appellate order or the modified order, as the case may be, is an order under sub-section (2) of section 10.

17. *Revision.*—(1) The Commissioner of State Tax may *suo moto* or upon information received by him, for reasons to be recorded in writing, at any time, within two years from the



date of order, call for and examine any order passed under section 14 or section 16, to satisfy himself as to the correctness, legality or propriety of the order made or decision taken therein and if in any case, it appears to the Commissioner of State Tax that any such order or decision should be modified, annulled, reversed or remitted back for reconsideration, he may pass orders accordingly.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity for making his representation.

18. *Bar on revenue recovery proceedings.*—Notwithstanding anything contained in the Kerala Revenue Recovery Act, 1968 (15 of 1968) waiver of arrears under section 11 and section 12 of the scheme shall be applicable to those cases in which revenue recovery proceedings have been initiated and the designated authorities shall have the power to collect such amounts towards amount payable and in cases where the designated authorities issued a certificate under section 14 or in cases where the arrears of tax, surcharge, interest or penalty are waived under section 12, the designated authority shall also withdraw the revenue recovery proceedings against such applicants which shall be binding on the revenue authorities, and such arrears shall not be liable for levy of any collection charges.

19. *Bar on re-opening of settled cases.*—A certificate of settlement issued under section 14 shall be conclusive as to the settlement of arrears to which it relates, and no matter covered by such certificate of settlement shall be reopened in any proceeding of appeal, revision or review or in any other proceeding under the relevant Act.

20. *Revocation of certificate.*—(1) Notwithstanding anything contained in section 19, where it appears to the designated authority that an applicant has obtained a certificate of settlement under sub-section (1) of section 14, by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, the designated authority, may, within a period of two years from the date of issue of the certificate, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity for showing cause, revoke the certificate and the order.

(2) In the case of revocation of a certificate and the order under sub-section (1), the amount paid by the applicant along with the application made under section 9 shall be treated as payment towards the arrears under the relevant Act for the relevant assessment year.



21. *Information to be sent to authorities under the relevant Act.*—The designated authority shall inform the assessing authority, appellate authority, revisional authority or tribunal under the relevant Act or the Court, as the case may be, which, for the time being, has jurisdiction over the applicant under the relevant Act,—

- (a) the fact of making of an application by the applicant under section 9;
- (b) the fact of passing of any order by the designated authority under section 14;
- (c) the fact of rectification of any error on the face of any certificate under sub-section (3) of section 14;
- (d) the fact of revision of any order under section 17;
- (e) the fact of revocation of any certificate under section 20; and
- (f) such other matters as it may deem necessary in such form, in such manner and within such time, as may be prescribed.

22. *Power of Commissioner of State Tax.*—Subject to the provisions of the scheme, the Commissioner of State Tax may, from time to time, issue instructions and directions as he may deem fit for carrying out the purposes of the scheme.

23. *Prohibition of disclosure of particulars produced before designated authorities.*—(1) All particulars contained in the application, statement made, records or documents produced under the provisions of the scheme or in any evidence given or affidavit or deposition made, in the course of any proceeding under the scheme or in any proceeding for the purposes of the scheme shall be treated as confidential and shall not be disclosed.

(2) Nothing contained in sub-section (1) shall apply to the disclosure of any such particulars,—

- (a) for the purpose of investigation of, or prosecution for, an offence under the scheme, or under the Bharatiya Nyaya Sanhita, 2023 (Central Act 45 of 2023) or under any other law for the time being in force; or
- (b) to any person enforcing the provisions of the scheme where it is necessary to disclose the same to him for the purposes of the scheme; or



(c) the lawful employment under the scheme of any process for the recovery of any demand; or

(d) to a civil court in any suit to which the Government are party and which relates to any matter arising out of any proceeding under the scheme; or

(e) the lawful exercise by a public servant of his powers under the Kerala Stamp Act, 1959 (17 of 1959) to impound an insufficiently stamped document; or

(f) to an officer of,—

(i) the Government of India; or

(ii) the Government of any State or Union Territory in India with which an arrangement for disclosure on a reciprocal basis has been entered into by the Government; or

(g) to an officer of any department of the Government other than the Kerala State Goods and Services Tax Department, after obtaining the permission of the Commissioner of State Tax:

Provided that such particulars shall be furnished under this sub-section only in exceptional cases and that any officer obtaining such particulars shall keep them as confidential and use them only in the lawful exercise of the powers conferred by or under any enactment.

(3) Nothing herein contained shall prevent the publication of the certificate of settlement or order of refusal of settlement in the prescribed manner.

24. *Protection of action taken in good faith.*—(1) No suit, prosecution or other proceedings shall lie against any officer or servant of the Government for any act done or purporting to be done under the scheme, without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under the scheme.

25. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to any of the provisions of the scheme, the Commissioner of State Tax may, by order, not inconsistent with the provisions of the scheme, remove such difficulty:



Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of the scheme.

(2) Every order issued under sub-section (1) shall be laid before the Legislative Assembly by the Government.

26. *Power to make rules.*—(1) The Government may, by notification, either prospectively or retrospectively make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. *Validation.*—Notwithstanding anything contained in the Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960) any revision of fees charged by virtue of the provisions of the Kerala Finance Bill, 2024 (Bill No. 193 of Fifteenth Kerala Legislative Assembly) in respect of the period with effect on and from 1st day of April, 2024 to the date of publication of this Act shall be deemed to have been validly done and duly collected by an authority at such higher rates shall be deemed to have been validly collected and the fees so collected shall be paid over to the Government and shall not be refunded.

