

CIRCULAR No 18 / 2016

Sub:- Kerala Finance Bill, 2016 – Bill No.16 of the Fourteenth Kerala Legislative Assembly – Salient features and certain operational instructions issued - reg.

Ref:- Kerala Finance Bill, 2016.

Kerala Finance Bill 2016 (Bill No.16) is introduced in the Fourteenth Kerala Legislative Assembly on 18/07/2016. The provisions contained in the Bill takes effect from 18.07.2016 vide the declaration under the Kerala Provisional Collection of Revenues Act, unless otherwise specified.

The salient features of the Bill are discussed below:

Kerala Surcharge on Taxes Act, 1957

A surcharge at the rate of 5% is levied on the tax payable under section 6 of KVAT Act with respect to the sale of water, soda, soft drinks, fruit juices and other beverages aerated or not, intended for human consumption and sold in plastic containers below 20 liters. The provision of input tax credit and special rebate will not apply to surcharge. For this purpose, new sub-section (1AA) has been introduced in Section 3 of the Act.

The dealers are not entitled to collect this surcharge payable by them under the Act (Amendment in sub-section (2) of Section 3 may be seen).

Kerala General Sales Tax Act, 1963

Amnesty scheme as per Section 23B of the Kerala General Sales Tax Act has been reintroduced with changes in the concessions. A detailed Circular is issued separately.

Kerala Tax on Luxuries Act, 1976

1. Hostels run directly by the educational institutions and working woman's hostels run by religious or charitable institutions, registered under the Travancore – Cochin Literary, Scientific and Charitable societies Registration Act, 1955 is exempted from payment of luxury tax.
2. The luxury tax rate in respect of hotels has been changed at the following rates :-

| Gross Charges | Rate of tax |
|--------------------------------|-------------|
| Up to Rs.400/- | 0% |
| Above Rs.400 – Rs 1000 per day | 6% |
| Above Rs.1000 per day | 10% |

3. All concessions granted as per Kerala Finance Act, 2014 are withdrawn.
4. A new provision vide Sec.10AB has been introduced thereby made the Directors of a Private Limited Company jointly and severally liable for unpaid taxes.

Kerala Agricultural Income Tax Act, 1991

Only companies are made liable for AIT and the tax rate is limited to 30% of the total agricultural income.

Kerala Value Added Tax Act, 2003

New tax proposals:

1. All types of plastic carry bags including non-woven poly propylene bags are taxed at 20%.
2. Disposable tumblers of plastic are taxed at 20%.
3. All textiles items taxable at 1% are increased to 2%.
4. LNG is taxable at 14.5%.
5. Coconut oil and rice bran oil are taxed at 5%.
6. Washing soap bars and cakes manufactured using Coconut Oil taxable at 1% increased to 5%.
7. Burgers, pizza, tacos, dough-nuts, sandwiches, burger-pattys, pasta, bread filling and other cooked food items sold by restaurants having a brand name or a trade mark registered under the Trade Marks Act, 1999 are taxed at 14.5%.
8. Basmati Rice, Atta, Maida, Sooji and Rava sold in packages with MRP printed on such packages are taxed at 5%.
9. The sale of cardamom at the point of auction conducted at the auction centre holding a valid license issued by the Spices Board under the Cardamom (Licensing & Marketing) Rules, 1987 is taxed at 2%.

Tax concessions:

1. The tax rate of mobile phone charger sold along with mobile phone in sealed pack is 5% with effect from 01-04-2005.
2. The tax rate of waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators; electrical parts of machinery or apparatus is reduced from 14.5% to 5%.
3. The tax rate on the sale of disposable plates and cups made of styrofoam for the years 2013-14 and 2014-15 is at 5%.

Tax exemptions:

1. Cooked food manufactured by the prisoners and sold by the Kerala Prison and Correctional Services Department is exempted with effect from 01-04-2011.
2. The exemption granted to sale of copy right and transfer of right to use of cinematographic films is restored.
3. Cement or concrete frames for doors and windows with or without MS-rod and MS-flat is exempted from tax with effect from 01-04-2005.
4. Cleaning liquids for removing pesticides residue from vegetables manufactured by units using the technology developed by KAU or other recognized institution is exempted from tax.

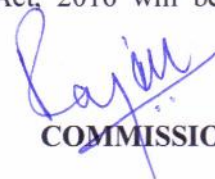
5. Earthen pots made from earth clay including flower pots, receptacles, statues and earthen oven are exempted from tax.
6. Municipal Plastic Waste is exempted from tax.
7. Braille Printer and assistive devices for visually challenged persons like white cane and electronic cane are exempted from tax.

Other Statutory amendments with respect to processes and procedures:

1. For the purpose of sec. 6(7), regarding SEZ exemption, it is clarified that building materials would include basic building materials and other goods essentially required to make building effectively functional and capable of being used by the unit.
2. The orders under sub-clause (iv) of Sec.8(f) shall be appealable only to appellate tribunal [Sec.8(f)(v)].
3. A contractor with CST registration can compound other works which are not in the negative list [Sec.8(a)].
4. Single option is allowable only for contract(s) awarded by Govt. of Kerala, Kerala Water Authority and local bodies. For other contracts, work-wise compounding option will have to be filed. [Sec.8(a)(ii)]
5. A work once compounded will remain compounded till the completion of such work, subject to prevailing rates applicable for each year. [Sec.8(a)]
6. Ongoing works awarded by Govt. of Kerala, Kerala Water Authority and local bodies which remain unexecuted fully or partly as on 31-03-2014, the compounded tax rates would remain the same when the contractor had opted for these works, up to 31st March, 2016. [Sec/8(a)]
7. The burden of proof of denying a transaction or correctness in any documents furnished using the user identification-name and password allotted to a dealer by the Department lies on the dealer himself. [Sec.9]
8. Subsequent dealer can avail input tax credit for the differential tax remitted by the first seller on account of tax rate classification disputes. [Proviso to Section 11(5)]
9. The power to condone delay for filing option u/s. 8 in respect of works awarded by Government of Kerala, KWA or local bodies is transferred to the district Deputy Commissioner, which was earlier vested with the Commissioner. [Section 20A]
10. Special provision is introduced for waiving penalty and interest for bakery dealers who sold branded bakery products but had not remitted the tax at the prescribed rate for the period up to 2013-14. [New provision 25D]
11. Amnesty scheme for presumptive dealers is introduced. The presumptive tax amnesty scheme circular is issued separately. [Sec. 25 E]
12. Dealers whose total turnover for the previous year had exceeded Rs.5 crores will have to upload the bill / invoice / cash memorandum on a real time basis in KVATIS. A suitable scheme and facilities shall be devised for the same and it will come into effect from notified date. [Sec.40]

13. Units of Kerala State Electricity Board Limited which obtained separate registration as per sub-sec (3) of Section 20 shall file trial balance for each such units along with audited statement of accounts and certificate of the company. [Sec.42]
14. When goods are transported out of the State through coastal cargo, air or railways, such dealer or person or his agents by whatever name called, shall furnish a declaration to such authority in such manner as may be prescribed. [Section 46]
15. The sale of seized goods in auction shall be conducted only after confiscation. [Sec.47]
16. Fee for transit pass is raised from Rs.100/- to Rs.250/-.
17. Any dealer filing an appeal to the first appellate authority against the order of the assessing authority with proof of payment of 20% of the disputed amount of tax along with the collected tax, if any, there will be an automatic stay on the recovery of balance demand in such cases without further orders from the appellate authority. [Sec.55(4)]
18. A suo-motu revisional power by the Commissioner or the authorized Joint Commissioner against the orders passed by the first appellate authority is introduced, in cases where such orders are prejudicial to the interest of revenue. [Sec.58A]
19. Sending notices through K VATIS portal along with SMS alert is recognized as a mode of service in the Act. [Section 88].

All the above instruction-related details may be referred to in the Kerala Finance Bill, 2016. The instructions issued above will be subjected to amendments and validations, if any, that may be made in this Bill provisions by the Legislature, when Kerala Finance Act, 2016 will become finalized.


COMMISSIONER