

THE KERALA FINANCE ACT, 1984

(Act 17 of 1984)

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THE KERALA FINANCE ACT, 1984

(Act 17 of 1984)

An Act to give effect to the financial proposals of the Government of Kerala for the financial year 1984-85.

Preamble — WHEREAS it is expedient to give effect to the financial proposals of the Government of Kerala for the financial year 1984-85,

BE it enacted in the Thirty-fifth Year of the Republic of India as follows —

1 *Short title and commencement* —(1) This Act may be called the Kerala Finance Act, 1984.

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

2. *Amendment of Act 15 of 1963.*—In the Kerala General Sales Tax Act, 1963 (15 of 1963),—

(i) in section 2,—

(a) in clause (viii), —

(A) in the opening paragraph, after the words “or distributing goods”, the words “executing works contract, transferring the right to use any goods or supplying by way of or as part of any service, any goods” shall be inserted,

(B) in sub-clause (c), after the words “or distributing goods”, the words “executing works contract, transferring the right to use any goods or supplying by way of or as part of any service, any goods,” shall be inserted,

(C) in sub-clause (d), for the word “association”, the words “association or body of persons, whether incorporated or not” shall be substituted,

(D) after sub-clause (e) and before *Explanation* (1), the following sub-clause shall be inserted, namely —

“(f) a person who, whether in the course of business or not,—

(i) transfers any goods, including controlled goods, whether in pursuance of a contract or not, for cash or deferred payment or other valuable consideration.

Received the assent of the Governor on the 28th day of July, 1984, and published in the Kerala Gazette Extraordinary No 662 dated the 28th July, 1984.

(2) transfers property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(3) delivers any goods on hire-purchase or any system of payment by instalments,

(4) transfers the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration,

(5) supplies, by way of or as part of any service or in any other manner whatsoever, goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration",

(E) in *Explanation* (1), for the words "an association" the words "an association or body of persons whether incorporated or not" shall be substituted,

(b) in clause (xi), after the words "used in the", the words "construction, fitting out improvement or repair of immovable property or used in the" shall be inserted,

(c) in clause (xviii), for the words "purchases or sells goods", the words "carries on business" shall be substituted,

(d) in clause (xxi),

(A) after the words "every transfer", the words "whether in pursuance of a contract or not" shall be inserted

(B) in *Explanation* (2), for the words "any association", the word "any association or body of persons, whether incorporated or not" shall be substituted,

(C) in *Explanation* (3), the following words shall be added at the end, namely:—

"on the date of delivery of the goods in pursuance of the agreement of such hire-purchase or other system of payment in instalments",

(D) after *Explanation* (3), the following *Explanations* shall be inserted namely.—

Explanation 3(A) —A transfer of property in goods involved in the execution of a works contract shall be deemed to be a sale

Explanation (3B) —A transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, shall be deemed to be a sale.

Explanation (3C) — Any supply, by way of or as part of any service for in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration, shall be deemed to be a sale.

Explanation (3D) — Unless otherwise expressly provided in this Act any transfer, delivery or supply of any goods referred to in this clause shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and purchase of those goods by the person to whom such transfer delivery or supply is made”.

(e) in clause (xxvii) after *Explanation (1)*, the following *Explanation* shall be inserted, namely —

“*Explanation (1A)* —(1) The turnover in respect of works contract shall be the aggregate amount received or receivable by the dealer for carrying out such contract less such portion representing labour charges as may be prescribed;

(ii) The turnover in respect of delivery of goods on hire-purchase or on any system of payment by instalments shall be the market price of the goods so delivered,

(iii) The turnover in respect of the transfer of the right to use any goods shall be the aggregate amount received or receivable by the dealer as consideration for such transfer”.

(f) after clause (xxix), the following clause shall be inserted, namely:—

“(xxix a) “works contract” includes any agreement for carrying out for cash or for deferred payment or other valuable consideration, the construction, fitting out, improvement, repair, manufacture, processing, fabrication, erection, installation modification or commissioning, of any movable or immovable property”.

(ii) in section 5,—

(a) in sub-section (1),—

(A) in the opening paragraph, for the words “seventy-five thousand rupees”, the words “one lakh rupees” shall be substituted;

(B) in clause (1) the word “and” occurring at the end shall be omitted,

(C) for clause (ii), the following clauses shall be substituted namely —

(i) in the case of goods not specified in the First or Second Schedule and not coming under clause (iii), at the rate of five per cent at all points of sale; and

(iii) in the case of transfer of the right to use any goods for any purpose (whether or not for a specified period), at the rate of five per cent at all points of such transfer on an aggregate turnover of fifty thousand rupees and above”,

(b) in sub-section (2), for the words “twenty-five thousand rupees”, the words “fifty thousand rupees” shall be substituted,

(iii) in section 5A,—

(a) in sub-section (2),—

(A) for the words “seventy-five thousand rupees”, the words “one lakh rupees” shall be substituted;

(B) in the proviso, for the words “twenty-five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

(b) in sub-section (3), for the words “seventy-five thousand rupees” and “eighty thousand rupees”; the words “one lakh rupees” and “one lakh and ten thousand rupees” shall, respectively, be substituted,

(iv) in sub-section (1) of section 7,—

(a) for the words “seventy-five thousand rupees” and “eighty thousand rupees”, the words “one lakh rupees” and “one lakh and ten thousand rupees” shall, respectively, be substituted,

(b) for the words “two per cent”, the words “two and a half per cent” shall be substituted;

(v) in section 13,—

(a) in sub-section (1), for the words “seventy-five thousand rupees” the words “one lakh rupees” shall be substituted,

(b) in sub-section (2), for the words “twenty-five thousand rupees”, the words “fifty thousand rupees and every dealer liable to pay tax under clause (iii) of sub-section (1) of section 5” shall be substituted,

(vi) in section 17, in sub-section (4), for the first proviso the following proviso shall be substituted, namely.—

“Provided that the provisions of this sub-section shall not apply if the tax due as specified in the return is less than the tax assessed according to the latest completed assessment by more than twenty-five per cent.”,

(vii) after section 19A, the following section shall be inserted, namely:—

“19B. *Assessment in case of under valuation* —(1) If the assessing authority, is satisfied that a dealer has, with a view to evade the payment of tax,

shown in his accounts, sale or purchase of any goods at prices lower than the prevailing market price of such goods, it may estimate the value of each goods on the basis of the prevailing market price and assess or reassess the dealer to the best of its judgement, after making such enquiry as it may consider necessary and after affording the dealer a reasonable opportunity of being heard

(2) The provisions of sub-sections (2) to (4) of section 19 shall apply to the assessment or reassessment under sub-section (1)”,

(viii) in section 22, in sub-section (1), the words “and pay over the same to the Government in the manner prescribed” shall be added at the end;

(ix) after section 30 the following section shall be inserted, namely -

“30A *Procedure for transport of notified goods* —(1) The driver or other person in charge of a vehicle or vessel shall stop the vehicle or vessel at any place when so required by any officer, authorised by the Government in this behalf, for the purpose of enabling such officer to verify whether the goods are being transported in contravention of sub-section (1) of section 30

(2) If, on verification, such officer has reasons to suspect that the goods are being transported in contravention of sub-section (1) of section 30, he may, for reasons to be recorded in writing, detain the goods and shall proceed in accordance with the provisions of section 29A”,

(x) in section 34, in sub-section (1),—

(a) after the word, figures and letter ‘section 19A’ the word figures and letter “section 19B” shall be inserted,

(b) for the words figure ‘or section 30’, the words, figures and letter “section 30 or section 30 A” shall be substituted,

(c) in the second proviso, after the word and figures “section 19” the words, figures and letter “or section 19B” shall be inserted

(xi) in the First Schedule,—

(1) after Serial Number 10 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely —

| | | |
|--|--|-----|
| “10A Flour not included in the Second Schedule | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 4 |
| 10B Vermicelli, ada and semia | do | 8”; |

(2) after Serial Number 15 and the entries relating thereto the following Serial Number and entries shall be inserted, namely:—

| | | |
|-------------------|--|-----|
| “16. Dried fruits | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8”, |
|-------------------|--|-----|

(3) after Serial Number 19 and the entries relating thereto the following Serial Number and entries shall be inserted, namely:—

| | | |
|------------------|--|------|
| “19A. Saccharine | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 10”; |
|------------------|--|------|

(4) after Serial Number 20 and the entries relating thereto the following Serial Number and entries shall be inserted namely.—

| | | |
|---|--|-----|
| “20A. Sweets not elsewhere mentioned in this Schedule | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8”; |
|---|--|-----|

(5) in the entry in column (3) against Serial Number 21, for the word “sale”, the word “purchase” shall be substituted.

(6) after Serial Number 26 and the entries relating thereto, the following Serial Number and entries shall be inserted, namely:—

| | | |
|-----------------------------|--|-----|
| “26A. Compounded asafoetida | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8”; |
|-----------------------------|--|-----|

(7) after Serial Number 28 and the entries relating thereto, the following Serial Number and entries shall be inserted; namely:—

| | | |
|-------------|---|-----|
| “28A. Cocoa | At the point of last purchase in the State by a dealer who is liable to tax under section 5 | 6”; |
|-------------|---|-----|

(8) for the entries in column (2) against Serial Number 42, the following shall be substituted, namely:—

“Artificial silk yarn, synthetic polyester fibre, polyester fibre yarn and staple fibre yarn”;

(9) after Serial Number 46 and the entries relating thereto, the following Serial Number and entries shall be inserted, namely:—

| | | |
|---------------------------------------|--|-----|
| “46A. Stainless steel rods and sheets | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8”; |
|---------------------------------------|--|-----|

(10) after Serial Number 47 and the entries relating thereto, the following Serial Number and entries shall be inserted, namely:—

| | | |
|------------------------|--|-----|
| “47A. Scented arecanut | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8”; |
|------------------------|--|-----|

(11) after Serial Number 49 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | |
|--------------------------------------|---|-----|
| “49A. Ganja and opium | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 50 |
| 49B. Soap stone | do. | 8 |
| 49C. Sandalwood and sandalwood chips | do. | 6 |
| 49D. Betal leaves | At the point of last purchase in the State by a dealer who is liable to tax under section 5 | 5 |
| 49E. Ayurvedic herbs | do. | 5”; |

(12) after Serial Number 56 and the entries relating thereto and before the *Explanation* thereunder, the following Serial Numbers and entries shall be inserted, namely:—

| | | |
|-------------------------|---|---|
| “56A. Asphalt (Bitumen) | “At the point of sale in the State by any oil company liable to tax under section 5, except where the sale is by an oil company to another oil company.”; | 3 |
| 56B. Shell Hexane | do. | 3 |
| 56C. White Oil | do. | 8 |
| 56D. Spray Oil | do. | 8 |

| | | | |
|------|-------------------------|--|-----|
| 56E. | Process Oil | "At the point of sale in the State by any oil company liable to tax under section 5 except where the sale is by an oil company to another oil company."; | 8 |
| 56F. | Jet Petrol | do. | 4 |
| 56G. | Mineral Turpentine | do. | 8 |
| 56H. | Solvent 1425 | do. | 8 |
| 56I. | Cutting Oil | do. | 8 |
| 56J. | Solvent Oil | do. | 8 |
| 56K. | Paraffin wax | do. | 8 |
| 56L. | Low sulphur heavy stock | do. | 8 |
| 56M. | Glass cleaner | do. | 8"; |

(13) in the *Explanation* below the entries relating to Serial Number 56 for the figures "56", the figures and letter "56M" shall be substituted;

(14) after Serial Number 58, and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|-------|-------------------|--|-----|
| "58A. | Hydrogen Chloride | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 7 |
| 58B. | Methane | do. | 7"; |

(15) for Serial Number 61 and the entries relating thereto, the following Serial Numbers and entries shall be substituted, namely:—

| | | | |
|------|--|--|-----|
| "61. | Caster oil | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 5 |
| 61A. | Maroti oil | do. | 5 |
| 61B. | Pine oil | do. | 5 |
| 61C. | Eucalyptus oil | do. | 5 |
| 61D. | All other edible oils including refined or hydrogenated oil and margarine except coconut oil | do. | 6"; |

(16) after Serial Number 70 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|------|--------------------|--|-----|
| 70A. | Chalk powder | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 6 |
| 70B. | Sagol lime product | do. | 8 |
| 70C. | Sulphur | do. | 8”; |

(17) in the entry in column (2) against Serial Number 72, the words “white oil” shall be omitted;

(18) after Serial Number 80 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|-------|--------------------------------|--|------|
| “80A. | Shaving sticks, shaving creams | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 10 |
| 80B. | Raw Bathis | do. | 10”; |

(19) after Serial Number 84 and the entries relating thereto, the following Serial Number and entries shall be inserted, namely:—

| | | | |
|-------|----------------|--|-----|
| “84A. | Organic manure | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 4”; |
|-------|----------------|--|-----|

(20) after Serial Number 96 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|-------|---------------------|--|------|
| “96A. | Cork and cork sheet | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8 |
| 96B. | Linoleum | do. | 15 |
| 96C. | Packing cases | do. | 8 |
| 96D. | Wooden boxes | do. | 8 |
| 96E. | Shooks | do. | 8 |
| 96F. | Wood shavings | do. | 6 |
| 96G. | Particle boards | do. | 10”; |

(21) after Serial Number 97 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|--------|-----|--|---|
| ‘9 7A. | Map | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8 |
|--------|-----|--|---|

| | | | |
|------|---|--|------|
| 97B. | Printed materials other than journals and books meant for reading | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8 |
| 97C. | Old newspaper | do. | 6 |
| 97D. | Paper cuttings | do. | 6 |
| 97E. | Toilet paper | do. | 10 |
| 97F. | Playing cards | do. | 10"; |

(22) after Serial Number 100 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|---------|--|--|-----|
| "100 A. | Gunny bags | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8 |
| 100B. | Pilecarpet | do. | 15 |
| 100C. | P.V.C. Cloth, waterproof cloth, tarpaulin and rexine | do. | 8"; |

(23) after Serial Number 101 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|--------|---|--|-----|
| "101A. | Beds, mattresses and pillows made of cotton | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 6 |
| 101B. | Cotton waste | do. | 6 |
| 101C. | Cotton yarn waste | do. | 6"; |

(24) for the entry in column (2) against Serial Number 105, the following shall be substituted, namely:—

"Glazed tiles, mosaic tiles, mosaic chips, marble tiles, marble slabs and chips";

(25) after Serial Number 105 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|--------|---------------------------|--|------|
| '105A. | Cuddappah stone and slabs | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 15 |
| 105B. | Mica | do. | 15"; |

(26) after Serial Number 111 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|-------|--|--|------|
| 111A. | Glass sheets, wired glass and rolled glass | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 10 |
| 111B. | Glass rods | do. | 10 |
| 111C. | Glass capillaries | do. | 10”; |

(27) after Serial Number 114 and the entries relating thereto, the following Serial Number and entries shall be inserted, namely:—

| | | | |
|-------|-----------|--|-----|
| 114A. | Gas meter | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8”; |
|-------|-----------|--|-----|

(28) after Serial Number 116 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|-------|--------------|--|-----|
| 116A. | Copper | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8 |
| 116B. | Zinc | do. | 8 |
| 116C. | Manganese | do. | 8 |
| 116D. | Brass | do. | 8 |
| 116E. | Bronze | do. | 8 |
| 116F. | Magnesium | do. | 8 |
| 116G. | Ferrosilicon | do. | 8”; |

(29) after Serial Number 121 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|-------|--|--|-----|
| 121A. | Metal scraps other than those specified in the Second Schedule | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 6 |
| 121B. | Concrete poles | do. | 8”; |

(30) after Serial Number 137 and the entries relating thereto, the following Serial Number and entries shall be inserted, namely:—

| | | | |
|-------|---|--|------|
| 137A. | Used-up storage batteries sold as scrap | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 10”; |
|-------|---|--|------|

(31) in the entries in column (2) against Serial Number 145, after the word “furniture”, the words “or parts thereof” shall be inserted;

(32) after Serial Number 153 and the entries relating thereto, the following Serial Number and entries shall be inserted, namely:—

| | | | |
|--------|---|--|------|
| "153A. | Articles made of ivory, horn, rosewood, sandalwood, coconut shell and straw | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 10"; |
|--------|---|--|------|

(33) after Serial Number 159 and the entries relating thereto, the following Serial Number and entries shall be inserted, namely:—

| | | | |
|--------|------------------|--|------|
| "159A. | Instrument boxes | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 5";; |
|--------|------------------|--|------|

(34) after Serial Number 160 and the entries relating thereto, the following Serial Numbers and entries shall be inserted, namely:—

| | | | |
|--------|---|--|-----|
| "160A. | Carbon paper, type carbon, stencil paper | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8 |
| 160B. | Typewriter ribbon | do. | 8"; |

(35) for the entry in column (2) against Serial Number 165, the following shall be substituted, namely:—

"Umbrella and parts thereof";

(36) after Serial Number 170 and the entries relating thereto, the following Serial Numbers and entries shall be added, namely:—

| | | | |
|------|--|--|-----|
| 171. | Shellac | At the point of first sale in the State by a dealer who is liable to tax under section 5 | 8 |
| 172. | Rosin | do. | 8 |
| 173. | Fibre glass | do. | 10 |
| 174. | Fevicol | do. | 8 |
| 175. | Gum and glue | do. | 8 |
| 176. | Resin | do. | 8 |
| 177. | Goat hair, raw wool, wool tops, woollen knitting yarn and wigs | do. | 6 |
| 178. | Fur and articles made of fur | do. | 6". |