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1764
25/6/2024
THE SECRETARY,
KERALA HIGH COURT ADVOCATES ASSOCIATION

SUB:- Resolution moved under Rule 25 of the Rules And Regulation 1971 of the Kerala High Court Advocate's Association.

Sir,

1. We the members of Kerala High Court Advocates Association request you to call for an Extra Ordinary General Body Meeting of the Association to consider the following resolutions.
2. The Government have introduced Kerala Finance Bill 2024 before the Kerala Legislative Assembly, proposing amendments to Kerala Courts Fees and Suit Valuation Act -1959 Since there is declaration in the Kerala Finance Bill, 2024 in accordance with the provisions of Kerala Provisional Collection of Revenues Act, 1985, the Honourable High Court of Kerala issued OM dated 2-4-24 deciding to collect the proposed Court fee for cases filed under Negotiable Instruments Act and Family Courts Act. The OM dated 2-4-24 and the relevant pages of Kerala Finance Bill, 2024 is Annexed herewith.
3. These two enhancements were made pursuant to an interim report submitted by Justice (Retd) Sri. V K Mohanan Committee consisting of Dr. N K Jayakumar, Adv. Sri. C. P. Pramod and Secretaries from the Law and Tax Department. The committee was appointed in February 2024 and the committee misled the Government by submitting an interim report advising enhancement of Court fee in cheque cases coming under Sec. 142

Place before next
EC.
J. P. Prasad

of NI Act and Family Court petitions. The interim report though mentioned in the budget speech the same is not published along with documents accompanying the budget. All the reports that affect the rights of the public shall be published as per Sec 4 (1) (c) and (d) of the *Right to Information Act, 2005*. This committee therefore is not functioning in compliance with the laws of the State.

4. It may be noted that if the paper reports are to be believed, the Court fee Revision committee relied on 189th report of Law Commission which deals about court fee. The mandate of the 189th report is very clear that Court fee shall not be imposed in cases under Criminal Jurisdiction. As far as civil cases are concerned the court fee shall not be considered as a source to meet the expenses for administration of Justice. It proposed hike in Court fee prescribed in Court Fees Act, 1870 which prescribed only nominal Court fees for cases filed before Union Territories. The said proposal is mis interpreted by the Committee to give a wrong recommendations to the Government which led to the enhancement of Court fee. The relevant pages of the 189th report of the Law Commission is also Annexed herewith.

5. If we make a comparative study of Court fees charged for disputes in the State of Kerala, we will be stunned by the exorbitant fees charged for litigation before Civil and Criminal Courts. The entire burden to meet the cost and expenses of Judiciary is kept on the shoulders of ordinary litigants. The influential and rich employees of the State Government is entitled to get adjudication of their disputes through Kerala Administrative Tribunal by paying a nominal Court fee. If we take the Court fees in DRT, the Banking Institutions are paying Rs. 10,000/- for 10 Lakhs and 1000 for every 1 Lakh in excess thereof subject to a maximum of Rs. 1,50,000/- under Rule 7 of Debt Recovery Tribunal Procedure Rules., 1993. Before

1993 these Banking Institutions were instituting suits in the Civil Courts by paying Ad valorem Court fees. The appeal proceedings under SARFAESI Act before DRT charges only Rs. 5000/- for Rs. 10 Lakh and thereafter Rs. 250 for every one lakh subject to a limit of Rs. 1 Lakh. The schedule of fees for National Company Law tribunal is nominal compared to the stake involved in company disputes. The maximum fee charged by Company Law Tribunal is Rs. 10,000/-. The Maximum Court fee levied by District Consumer Disputes Reddressal Commission is Rs. 2000/- for a claim of Rs. 1 Crore. The maximum court fee levied by State Consumer Disputes Reddressal Commission for a claim of Rs 10 Crore is Rs. 6000/-. The maximum court fee levied by National Consumer Disputes Reddressal Commission for a claim above Rs. Ten Crore is Rs. 7500/-. The Legal services authority act do not prescribe any fee for deciding disputes in permanent Lok Adalat. The Co-operative Tribunal of the State charges maximum limited Court fee of Rs. 2000/-. So financially well off litigants are paying much less Court fees than the litigants before Criminal and Civil Courts. There is no justification for imposition of such exorbitant fees even to women and children who approach family court.

6. The statement in the Budget speech 2024, that other States are charging more court fees is false. States like Tamilnadu, Karnataka and Maharashtra are charging only half the Court fee levied by our State. In the State of Gujarat the maximum limit of Court fee is Rs. 75,000/-.
7. After increasing the Court fee as stated above; the Retired Justice V K Mohanan committee have made public hearing. In the public hearing also the interim report submitted by the Committee was not given to the participant advocates even after written demand. In the circumstance we

the undersigned members of the Kerala High Court Advocates Association move the following resolution for consideration of the General Body. In the Budget speech it can be seen that the Government intends to enhance the Court fee in other areas also after getting the final report. If the final report is to be given in a truthful manner, then the court fee in our state is liable to be reduced in par with our neighboring states.



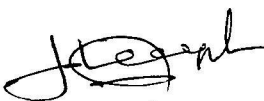
RESOLUTION

We the members of the Kerala High Court Advocates Association strongly condemn the functioning of Justice (Retd) Sri. V K Mohanan Committee consisting of Dr. N. K Jayakumar, Adv. C. P. Pramod and Secretaries from the Law and Tax Department who intentionally and collusively submitted interim report even before public hearing recommending court fees enhancement to the Government resulting in the introduction Kerala Finance Bill, 2024 enhancing Court fees for NI Act cases and Family Court petitions

The Kerala High Court Advocates Association also request the State Government to withdraw the enhanced Court fee introduced and levied as per Kerala Finance Bill, 2024 with immediate effect and revise the Ad valorem Court fee to affordable rates in par with the Court fee of neighboring states.

The Kerala High Court Advocates Association also resolve to initiate state wide protest against the illegal and arbitrary increase of Court fee in support of the ongoing agitations initiated by various Bar Associations across the State of Kerala.

Dated this the 24th day of June 2024

1. Adv. Sonny Mon. K. MATHEW 
2. A. A. Saleel 
3. John Numpali Junior 

- ④ K. V BHADRA KUMARI Bhadra
- ⑤ BYJA. E.G. Byja
- ⑥ Lalgi. P. Thomas Lalgi
- ⑦ Vijai Mathews Vijai
- 8. K. S. M. Kaber K. S. M.
- 9. Sheeba. c Sheeba
- 10 Adv. Deyestrom Deyestrom
- 11 nushid A. m nushid
- 12 Ade. Annie. M. Alesabem Annie
- 13) Deepak Raj. Deepak Raj
- 14) Roopa. C.P Roopa
- 15) Gouthami Gouthami
- 15) GOUTHAMI Gouthami
- 16) NANCY. S. POI Nancy
- 17) Sandra. S kumar Sandra
- 18 T.K Biju Mangaloor T.K Biju
- 19) A JITHU Ajithu
- 20 - T. ASHU GH. T. Ashu
- 21 K. G. Preetin K. G. Preetin
- 22) G. Ajith Kumar G. Ajith Kumar

- 23. Amalaly K
- 24. Rami Drotkima P
- 25. N.J. Mathias
- 26. Nehan Jacobs George
- 27. Keena Thomas
- 28. John Joseph
- 29. M.S. KIRAN
- 30. JIBY. G.J
- 31. Edwin Mathew
- 32. Seju. J. Perera
- 33. K.P. SHIBI
- 34. Sunil C.K
- 35. Vidya. K.G
- 36. Adv. Appappa Santhra
- 37. Adv. S. Hridya
- 38. Adv. Rosy. P.F
- 39. Adv. Sneha Rajiv
- 40. Adv. Sunil Kumar (12/24/95)
- 41. Adv. Jina P Binu
- 42. Sossy Kurian
- 43. Chackochan Vithayalil (Chacko)
- 44. Sneha Mary Santhosh
- 45. Sonia. K.J
- 46. P.J. Philip
- 47. P.K. Madhu Sathyanan

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Amalaly K

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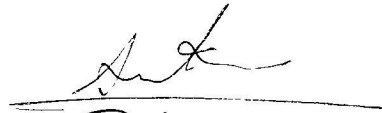
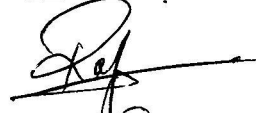

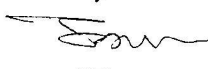

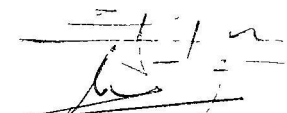
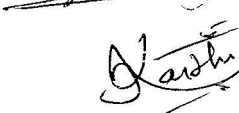



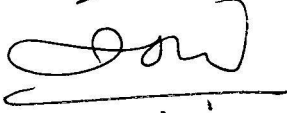

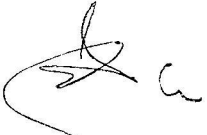
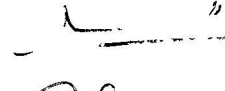


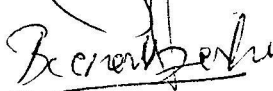




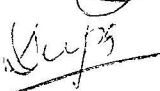

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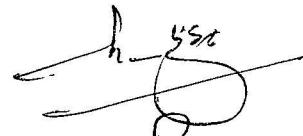

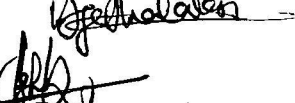



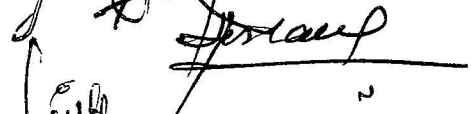





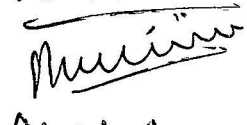









Sneha Mary Santhosh

Sonia. K.J






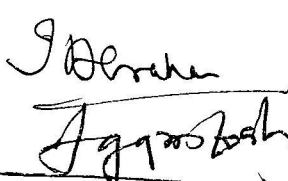
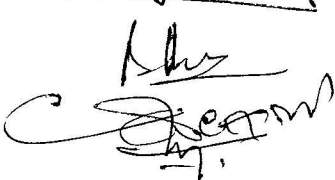
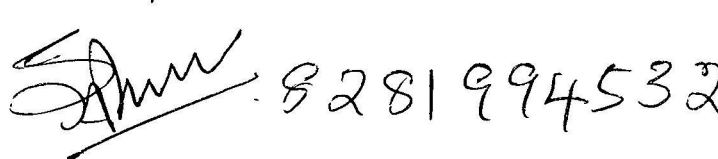



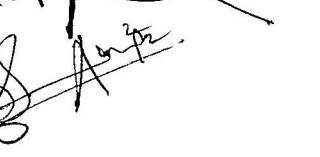



P.J. Philip

P.K. Madhu Sathyanan

- 48 D Anilkumar 
49. Raja. R 
50. Anju chandran N 
- 51 Samundin P 
- 52 SURAB. S 
53. Nijay P. K 
54. K. Sreelakshmi 
- 55 Kartika K. J. 
- 56 JEEVAN JOY 
- 57 Aswin. B 
58. Sujesh kumar 
- 59 N R ARUN karanavar 
60. Saugandha. C. U 
- 61 Anesh James 
- 62 Vychari. K. U. 
- 63 Gijo Thomas. 
- 64 M. D. B. C. V. 
65. Neha Vijay 
66. Subi. K 
67. ADITHYAN. M. V. 
68. Remul Regi George 
- 69 Deepa George 
- 70 R. Prem Sankar 

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| 71. P. Rakesh Kumar |  |
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| 75. T.M. SUNIL |  |
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| 79. Jubin Praya Restmy |  |
| 80. Sheeba. c |  |
| 81. Sanaprasanthi |  |
| 82. GEORGE KURUVILLA |  |
| 83. Benhur Joseph Manayuni |  |
| 84. Sabby John |  |
| 85. Margaret Maureen Drose |  |
| 86. Alexander KC |  |
| 87. Jose Davis |  |
| 88. K.S. Hurdiers |  |
| 89. Joseph Paul Samson Rodrigues |  |
| 90. Praya Ravi |  |
| 91. NISHIKI .P.S |  |
| 92. Shibe M Samuel. |  |

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| 93. | BABU - VP. | <u>BB</u> |
| 94. | Prayuth. R.K. | <u>PR</u> |
| 95. | K.K. Dheerendrakrishnan | <u>DD</u> |
| 96. | Abdul Basoff Palapatti | <u>Basoff</u> |
| 97. | Aswani Shrin. | <u>AS</u> |
| 98. | Titto Thomas | <u>Titto</u> |
| 99. | Alex. K. John | <u>Alex</u> |
| 100. | Basia. K.S | <u>Basia</u> |
| 101. | Cyril Matha | <u>Cyril</u> |
| 102. | S NO Parasanth | <u>SNO</u> |
| 103. | M. Suresh Babu | <u>M.S</u> |
| 104. | Sree Raj M.D | <u>Sree</u> |
| 105. | Mohammed Faisal | <u>Mohammed</u> |
| 106. | P. Jayaraman | <u>P. Jay</u> |
| 107. | ANIL KUMAR. SIVARAMAN | <u>ANIL</u> |
| 108. | Sebastian Philip | <u>Sebastian</u> |
| 109. | Shyru Das J.S | <u>Shyru</u> |
| 110. | Bino. P | <u>Bino</u> |
| 111. | Rassal Janardhanan A | <u>Rassal</u> |
| 112. | Thareeq Anur K. | <u>Thareeq</u> |
| 113. | Nanda Sreendran | <u>Nanda</u> |

- 114 Akhul Sharqi 
- 115 Siva Suresh 
- 116 Sachitha P Kurup 
- 117 Gose - Daliy 
- 118 Vidya G 
- 119 C.K. Chokkiam 
- 120 Jacob Abraham 
- 121 Jayaraman Arangan 
- 122 Premalatha 
- 123 Anstony Joyed 
- 124. K.A.Abdul Salam 
- 125. Gayendra. Singh Rajputchik 
- 126 Deepak 
- 127 Anvishu - K.R 
- 128. K. Qureshbabu 
- 129. R.T. Radhep.
- 130 Saniya C.V
- 131. M.L. Suresh Kumar
- 132 M.V.S. Nampoothy
- 133 PLEASANT T. SATHUR
- 134 CR. ANILKUMAR

- 136 AAKHIL MOHAMMED DM Aakhl
137. R. UMASHANKAR R. Umashankar
138. Asim Kumar P Asim Kumar P
139. K. R. Ganesh K. R. Ganesh
140. NK. Subramanian. NK. Subramanian
141. Navilakshmi Navilakshmi
142. Saija Kurauchi Saija Kurauchi
143. -K. N. Chandrababu K. N. Chandrababu
144. T. U. Jayad T. U. Jayad
145. Anitha M. N Anitha M. N
146. George Zachariah Entucked George Zachariah Entucked



THE HIGH COURT OF KERALA

Kochi : 682031

Email: d1section.hc-ker@gov.in

Phone: 0484 2562985

Date: 02-04-2024

HCKL/3359/2024-DI-1

OFFICIAL MEMORANDUM

Sub:- *The Kerala Finance Bill, 2024 - Amendments to the Kerala Court Fees and Suits Valuation Act, 1959 - Reg*

Ref:- 1) *The Kerala Finance Bill, 2024* (copy attached)

2) Sections 3 and 4 of *the Kerala Provisional Collection of Revenues Act, 1985*

The Government, vide reference cited first above, proposed certain amendments to *the Kerala Court Fees and Suits Valuation Act, 1959* with respect to change in court fees in certain category of cases filed under the provisions of *the Family Courts Act, 1985* and *the Negotiable Instruments Act, 1881* (Paragraph 3 of Chapter II in the Kerala Finance Bill, 2024).

Even though the *Kerala Finance Bill, 2024* is yet to be passed in the Legislative Assembly, the tax proposals in *the Kerala Finance Bill, 2024* will have effect from 01/04/2024 in accordance with the provisions under *the Kerala Provisional Collection of Revenues Act, 1985*. A declaration to that effect is also made in the Kerala Finance Bill, 2024.

Hence, the Courts concerned shall collect the revised court fees in such category of cases, as are applicable, in accordance with the amendments proposed to *the Kerala Court Fees and Suits Valuation Act, 1959* in *the Kerala Finance Bill, 2024* with effect from 01/04/2024.

(By Order)

Signed by P Krishna Kumar

Date: 02-04-2024 10:19:17

P Krishna Kumar
Registrar General

To:-

All the Principal District Judges (They shall communicate the above to all the Judicial Officers in the district)

All the Chief Judicial Magistrates

The Deputy Registrar and the Assistant Registrar, Filing Section, High Court

The Filing Section, High Court

Copy to.-

The Director, Kerala Judicial Academy
Adv. G. Unnikrishnan, (*Secretary, Rule Committee, GTWRA1,
Vigneswaram, Ganapathy Temple Road, Edappally- 682 024*)
The Confidential Assistants to Registrars, High Court.
The A Section, High Court.
The Administrative Records Section, High Court
The stock file.



കേരള ഗസറ്റ് KERALA GAZETTE

അസാധാരണം EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
PUBLISHED BY AUTHORITY

വാല്യം 13
Vol. XIII

തിരുവനന്തപുരം,
ബുധൻ
Thiruvananthapuram,
Wednesday

2024 ഫെബ്രുവരി 14
14th February 2024
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1st Kumbham 1199
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25th Magha 1945

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No } 549

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No.2787/Legn-1/2024/Leg.

Dated, Thiruvananthapuram, 14th February 2024.

The Kerala Finance Bill, 2024 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under rule 69 of the rules of procedure and conduct of business in the Kerala Legislative Assembly.

SHAJI C. BABY,
Secretary-in-charge.



THE KERALA FINANCE BILL, 2024

A
BILL

to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2024-2025.

Preamble - WHEREAS, it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2024-2025;

BE it enacted in the Seventy-fifth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. *Short title.*- This Act may be called the Kerala Finance Act, 2024.

CHAPTER II

REVISION OF TAXES

2. *Amendment of Act 17 of 1959.*-In the Kerala Stamp Act, 1959 (17 of 1959),-

(1) in section 28A, for clause (1B), the following clause shall be substituted, namely:—

“(1B) Notwithstanding anything contained in this Act or the rules made thereunder, the Government may, by notification published in the Official Gazette, make an increase of a fixed percentage in the fair value of land fixed as per sub-section (1) or revised fair value under sub-section (1A) from time to time and the value so increased shall be deemed to be the fair value of the land.”;

(2) in the schedule,—

(a) in serial number 16, in column (2), for the words “or other Revenue Officer”, the words and symbol “, other Revenue Officer or a Civil Officer” shall be substituted;

(b) for serial number 33 and the entries against it in columns (1), (2) and (3) and explanation thereto, the following serial number, entries and explanation shall respectively be substituted, namely:—



33. Lease – including an underlease or sub-lease
and any agreement to let or sub-let—
Where such lease purports to be—

(a) for a term less than one year :	Rupees 500
(b) for a term not less than one year but not more than 5 years :	Same duty as a conveyance (No. 21 or 22, as the case may be) on ten percentage of the value of the property subject to a minimum of Rupees 500.
(c) for a term exceeding 5 years but not exceeding 10 years :	Same duty as a conveyance (No. 21 or 22, as the case may be) on twenty percentage of the value of the property subject to a minimum of Rupees 1000.
(d) for a term exceeding 10 years but not exceeding 20 years :	Same duty as a conveyance (No. 21 or 22, as the case may be) on fifty percentage of the value of the property subject to a minimum of Rupees 2000.
(e) for a term exceeding 20 years but not exceeding 30 years:	Same duty as a conveyance (No. 21 or 22, as the case may be) on seventy five percentage of the value of the property.
(f) for a term exceeding 30 years or not for any definite term:	Same duty as a conveyance (No. 21 or 22, as the case may be) on ninety percentage of the value of the property.

Explanation I:-For the purpose of this serial number, “the value of the property” means for land where the fair value has been fixed under section 28A, such fair value, and for leases where no fair value has taken fixed for the land or for leases of Government land, the market value declared in the lease deed.



Explanation II:- Any consideration in the form of premium or money advanced or to be advanced by whatever name called shall be added to the fair value for the assessment of stamp duty.

Explanation III:- If a lease relates to only one item of property and that property is a building, or if an instrument relates to more than one item of property and one or more such item is or are building or buildings, the whole rental amount payable or deliverable under such lease, and/or any consideration in the form of premium or money advanced or to be advanced, or the proportionate fair value of the land in which the building is situated, whichever is higher, shall deemed to be the value of the property.

Explanation IV:- The renewal period, if specifically mentioned, shall be treated as part of the present lease.

(c) in serial number 43,-

(i) for item B, the following item shall be substituted, namey.-

“B. Instrument of Reconstitution of Partnership that is to say, where on reconstitution of the partnership any immovable property is taken as his share by a partner other than a partner who brought in that property as his share of contribution in partnership

Eight percent on the fair value of the property subject to a minimum of rupees One Thousand”;

(ii) after item B so substituted the following item shall be inserted, namely:-

“C Dissolution of partnership deed-

(a) where on a dissolution of the partnership any immovable property is taken as his share by a partner other than a partner who brought in that property as his share of contribution in the partnership

Eight percent on the fair value of the property subject to a minimum of rupees One Thousand

(b) in any other case

One thousand rupees”;



(d) in serial number 44, in item (g), for entries in column (2), the following entry shall be substituted, namely:—

"when giving authority or power to a promoter or a developer, by whatsoever name called, to make construction on or development of, (in any manner whatsoever) any immovable property situated in Kerala and not being a power of attorney authorising sale or transfer of immovable property in any manner".

3. *Amendment of Act 10 of 1960.*-In the Kerala Court Fees and Suits Valuation Act,1959 (10 of 1960), in schedule II, after article 19 and the entries against it in columns (2) and (3), the following articles and entries shall be added in column (1), (2) and (3) respectively, namely:-

"20.(a) Petition or counter claim presented to family court under explanation (c) of sub-section (1) of section 7 of the Family Courts Act,1984 (Central Act 66 of 1984)-

When the amount or value of the subject matter in dispute-

(i)	does not exceed one lakh rupees	Two hundred rupees
(ii)	exceeds one lakh rupees upto five lakh rupees	Half percent of the claim amount
(iii)	above five lakh rupees	One percent of the claim amount, subject to a maximum of rupees two lakhs

(b) Memorandum of appeal filed before the High Court under section 19 of the Family Courts Act,1984 (Central Act 66 of 1984) against an order on a petition or counter claim falling under clause (a)-

When the amount or value of the subject matter in dispute-



- | | | |
|-------|---|---|
| (i) | does not exceed one lakh rupees | Two hundred rupees |
| (ii) | exceeds one lakh rupees upto five lakh rupees | Half percent of the claim amount |
| (iii) | above five lakh rupees | One percent of the claim amount, subject to a maximum of rupees two lakhs |

Exemption.-While calculating value of the subject matter, value of the dwelling house shall be exempted.

21. (a) Application or petition containing complaint or charge of an offence under section 138 of Negotiable Instruments Act,1881 (Central Act 26 of 1881)

- | | | |
|------|---|--|
| (i) | if the amount of dishonoured cheque involved in the complaint does not exceed ten thousand rupees | Two hundred and fifty rupees |
| (ii) | if the amount of dishonoured cheque involved in the complaint exceeds ten thousand rupees | Five percent of the entire cheque amount subject to a maximum of three lakh rupees |

(b) Memorandum of appeal under section 138 of Negotiable Instruments Act,1881 (Central Act 26 1881)

- | | | |
|------|---|--|
| (i) | where the appeal filed by the accused before the Sessions Court | One thousand rupees |
| (ii) | where the appeal filed by the complainant before the High Court | An amount equivalent to one half of court fees paid in the trial court |



(c) Revision petition presented to the High Court-

- | | | |
|------|--|--|
| (i) | filed by the complainant challenging insufficiency of sentence | One tenth of the cheque amount |
| (ii) | filed by the accused against conviction | One thousand and five hundred rupees”. |

4. *Amendment of Act 23 of 1963.*-In the Kerala Electricity Duty Act, 1963 (23 of 1963),-

(i) in sub-section (1) of section 3, for the figure and words “6 Naya Paise”, the figure and word “10 paise” shall be substituted;

(ii) in the schedule, in item no.5, in column (3), for the figure and symbol “1.2”, the figure “15” shall be substituted.

5. *Amendment of Act 19 of 1976.*-In the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976),-

(1) in clause (b) of sub-section (5) of section 3, for the second proviso, the following proviso shall be substituted, namely:-

“Provided further that in the case of vehicles covered with permit under sub-section (9) of section 88 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988) and registered in any State other than the State of Kerala and entered the State of Kerala and staying there in, the tax payable for such vehicle shall be,-

(i) if such stay does not exceeds seven days, one tenth of the quarterly tax for one round trip; and

(ii) if such stay exceeds seven days but does not exceed thirty days, one third of the quarterly tax for one round trip; and

(iii) in the cases of continuous operation in the State, quarterly tax”.

(2) in the schedule, in serial number 7, in item (i),-

(i) in sub-item (e),-

(a) in entry (i), in column (3), for the figure “2250”, the figure “1500” shall be substituted;

(b) in entry (ii), in column (3), for the figure “3000”, the figure “2000” shall be substituted;

(c) 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 clause (24) of section 2 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 5 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 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 paying an amount recalculating the amount recalculated 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 the 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 within sixty days of receipt of the form referred to in sub-section (2) by the applicant failing which the such short amount paid 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 up to 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 sub-section (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. A separate order and certificate of settlement shall be issued in respect of each application:

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) 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 showcause against such rectification.

(3) 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 motu issue a certificate of settlement under sub-section (1) even if the application referred to in sub-section (1) of section 9 is not submitted.

(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 may, for reasons other than short payment of amounts as required under the scheme, refuse to settle the arrears of tax, surcharge, interest or penalty on receipt of the application referred to in section 9:

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

16. Appeal.—Any person aggrieved by an order passed under section 10, sub-section (2) 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 of 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 of 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 of showing cause, revoke the certificate.

(2) In the case of revocation of a certificate 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 revocation of any certificate under section 20; and
- (e) 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 Indian Penal Code, 1860 (Central Act XLV of 1860) 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 clause 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.*— 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.

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.

**DECLARATION UNDER THE KERALA PROVISIONAL COLLECTION OF REVENUES
ACT, 1985
(10 OF 1985)**

It is hereby declared that it is expedient in the public interest that Chapter II of this Bill shall have effect on and from the 1st day of April, 2024, under the Kerala Provisional Collection of Revenues Act, 1985 (10 of 1985). Chapter III of the Bill shall have effect on such date as the Commissioner of State Tax may, by notification in the Official Gazette, appoint.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the following enactments to give effect to the financial proposals of the Government of Kerala for the financial year 2024-25 as announced in part IV of the Budget Speech 2024-25, namely:-



1. The Kerala Stamp Act, 1959 (17 of 1959);
2. The Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960);
3. The Kerala Electricity Duty Act, 1963 (23 of 1963);
4. The Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976).

In addition to this, the system of levy of tax on Goods and Services has been introduced in a uniform manner throughout the country, including Kerala, from the 1st day of July, 2017. A large amount of tax, interest and penalty are pending under various enactments, namely, the Kerala Surcharge on Taxes Act, 1957 (11 of 1957), the Kerala General Sales Tax Act, 1963 (15 of 1963), the repealed Kerala Tax on Luxuries Act, 1976 (32 of 1976), the Kerala Agricultural Income Tax Act, 1991 (15 of 1991), the repealed Kerala Value Added Tax Act, 2003 (30 of 2004), and the Central Sales Tax Act, 1956 (Central Act 74 of 1956). The dealers were not able to pay the taxes levied as a result of assessments made under the best of judgement, and due to levy of consequential penalties and interest due thereon.

Though Amnesty Schemes were introduced in previous financial years to settling these arrears, but a substantial amounts are still outstanding. In view of demands from various stake holders government have decided to introduce a comprehensive amnesty scheme for this purpose.

The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill seeks to empower the Commissioner of State Tax, by order, to appoint one or more officers or a Committee of officers to be the designated authority.



2) Sub-clause (1) of clause 9 of the Bill seeks to empower the Commissioner of State Tax to specify the time and date of taking the application for settlement and also empower the Government to prescribe the form and manner of filing the application.

3) Sub-clause (1) of clause 14 of the Bill seeks to empower the Government to prescribe the form and manner of the certificate of settlement.

4) Clause 16 of the Bill seeks to empower the Commissioner, by notification, to specify an officer as Appellate Authority.

5) Clause 21 of the Bill seeks to empower the Government to prescribe form, manner and time for furnishing the information to various authorities under the relevant Acts.

6) Sub-clause (2) of clause 25 of the Bill seeks to empower the Commissioner of State Tax to issue orders for the removal of difficulties.

7) Sub-clause (1) of clause 26 of the Bill seeks to empower the Government to make rules either prospectively or retrospectively for the purpose of carrying out the purposes of the Act.

8) The matters in respect to which rules may be made or notifications or orders may be issued are either, administrative in nature or matters of procedure and are of routine in nature. Further, the rules, after they are made, are subject to the scrutiny of the Legislative Assembly. The delegation of legislative powers is, thus, of a normal character.

K.N.BALAGOPAL



Relevant Pages of Budget Speech-2014

555. From 1963 onwards, Electricity duty for the sale of electricity is being levied at the rate of 6 paise per unit. This is enhanced to 10 paise per unit. An additional Revenue of Rs.101.41 crores is expected.

Judicial Court Fee

566. Judicial Court fee stamp rate in the state has not been revised for the last two decades. Though in the last budget speech it was declared that the court fees would be enhanced, the same could not be brought into force.

567. In the past, court fees had been revised based on the recommendations of the committee appointed by the Government for this purpose. For furnishing recommendations for revising the court fee in the state, Government have appointed a five-member committee under the chairmanship of Justice (Retd) V. K. Mohanan. The committee has already submitted its interim report to the Government. The following changes are being effected, based on the recommendations of the committee.

568. Many States in India have been imposing separate court fee in cases filed, as per Section 138 of Negotiable Instrument Act 1881. But in the State, the Judicial Court

Fee is still only Rs.10/. The committee after examining the same, has recommended that if the value of the dishonored cheque is up to Rupees 10,000/-, then Rupees 250/- may be imposed as court fees. In case the value exceeds Rs. 10,000, then five percent of the cheque amount may be imposed as Court Fees, subject to the condition that the maximum amount of Court Fees shall not exceed Rs. 3,00,000.

569. The following changes are being proposed in cases of appeals filed under this act. The amount of Court Fees proposed in cases of appeals filed by an accused before the Sessions Court shall be Rs.1,000, and for appeals filed by the complainant before the Hon: High Court, it shall be half of the Court Fees remitted in the trial court.

570. Likewise, it is hereby proposed that for the revision petition filed by the complainant before Hon: High court, the Court Fees shall be one tenth of the cheque amount, and in revision petitions filed by the accused against conviction, it shall be Rupees 1500/-.

571. Similarly, for petitions filed under Section 7(1)(c) of the Family Courts Act,1984 relating to property, a fee of Rupees 50/- is imposed at present. The committee has also recommended to revise the same. Where the value

of the subject matter in dispute does not exceed one lakh rupees, the court fee shall be 200/- Rupees, and in cases where the value is between One Lakh and Five Lakhs Rupees, the fee shall be half percent of the claim amount, and if the amount exceeds Rupees Five Lakhs, the fee shall be one percent of the claim amount, subject to a maximum of Rupees Two Lakhs. Court fee at the same rate shall be imposed on appeals from these cases filed before the Hon: High Court.

572. By accepting the recommendations of the committee, chaired by the former Judge of Hon: High Court, suitable amendments will be incorporated in The Kerala Court Fees and Suits Valuation Act, 1959. Through these the Government expects a revenue of Rupees Fifty Crores. Also, steps will be taken to revise court fee in other areas based on the recommendations in the final report of the committee.

Motor Vehicle Department

573. The number of tourist buses with All India Tourist permit that are registered in the state is very low. Those vehicles that ought to be registered in Kerala go to states like Nagaland and Arunachal Pradesh where the tax is relatively low and get the vehicle registered there. They

Relevant Pages of 189th Law Commission Report

The upshot of the above discussion is that it is one of the fundamental obligations of the State to provide effective fora for better administration of justice. Where access to justice is made to depend on the price that a litigant is willing to pay, it would, given the realities of our country, tantamount to denial of access to justice. The state cannot possibly disown its constitutional obligation to provide easy and affordable access to justice on the pretext of non-availability of requisite finance.

Criminal Justice is sovereign function: no Court fee is payable

Administration of justice has two broad wings (1) Civil Justice and (2) Criminal Justice. The Law Commission in its 127th Report on 'Resource Allocation for Infrastructural Service in Judicial Administration' (1988) discussed distinction between civil and criminal justice system. The Commission observed at para 5.1 as follows:

"The distinguishing feature between the civil justice system and criminal justice system lies in the fact that civil justice system provides fora for resolution of disputes between individuals, between individuals and the State, and even between the State and the States where a party complains of wrong being done to it and seeks redress. Administration of criminal justice system partakes the character of a regulatory mechanism of the society whereby the State enforces discipline in the society by providing fora for investigation of crime and punishment."

The obligations of the State in respect of administration of civil and criminal justice materially differ. In respect of the obligation of the State so far as it relates to administration of criminal justice, the Law Commission in its 128th Report on 'Cost of Litigation' (1988), categorically stated that **administration of criminal justice is the obligatory duty of the State as part of its sovereign functions.** It is also stated in the Report that as it is, being part of the sovereign function of the State, no fee can be levied for performing the same and also because the system does not render any service to the litigant. The Commission stated at para 3.11 as follows:

"It is the State which must ensure internal peace. It is part of its duty to adopt regulatory measures and it is equally part of its duty to set up a forum for determining whether a violation of regulatory measures has or has not taken place and a punishment need or need not be imposed. This is the obligatory duty of the State as part of its sovereign functions. This can be broadly comprehended in the expression 'administration of criminal justice'. Ordinarily this being the part of the sovereign functions of the State, no fee can be levied for performing the same and also because the system does not render any service to the litigant."

Earlier the Law Commission in 14th Report also recommended (page 508) that the cost of the administration of public justice (criminal justice) should be borne entirely by the State. The Law Commission in 127th Report also stated (at para 5.1) that it is the duty and obligation of the State to set up Courts for administration of criminal justice. The State must pay the entire costs of administration of criminal justice.

Civil Justice – collection of Court fee cannot impede access to justice

This subject is discussed generally in this chapter and the question whether in relation to civil justice, full cost recovery should be made or not, is discussed separately in Chapter V

In respect of administration of civil justice system, the Law Commission in its 128th Report on **Cost of Litigation** (1988) has observed at para 3.12 as follows

“When it comes to civil justice, the approach has to undergo a change. Civil disputes include disputes between an individual and individual, between individual and groups of individuals, between group of individuals on one hand and group of individuals on the other hand and between individuals and group of individuals on one hand and State on the other. A writting (sic written) Constitution with an inbuilt chapter on fundamental rights and division of powers amongst Federation and States provide a fruitful ground for disputes coming into existence. These disputes have to be resolved because a continuous simmering dispute is not conducive to growth and development of society. However, when the disputes are between two individuals, say an employer and an employee, a husband and a wife, or between members of the same family, it is open to them to choose their own forum to get the dispute resolved. An arbitrator appointed by the parties for resolution of dispute partakes the character of the court because parties agree to treat its decision binding. The costs of

such arbitrator has to be met by the parties who agree to refer the disputes to arbitration. The arbitrator renders service to the disputes and charges fees. The position of the State is identical to that of an arbitrator. All parties cannot go continuously in search of an arbitrator. Parties to a dispute may not agree to go for arbitration. The State, therefore, sets up courts for administration of civil justice which term will comprehend all disputes other than those comprehended in administration of criminal justice. The court would be a readily accessible forum for a party complaining of violation of his right or a threatened invasion of his right or denial of his right and he may approach the court and seek redress of his right grievance. The court enjoys the judicial power of the State and can force the attendance of the other side to the dispute and adjudicate the dispute. Nonetheless, the court renders service. And to the extent this is service, fees, for service is chargeable.”

The Supreme Court has pointed out that while Court fee can be collected for purposes of civil justice, this should not be confused with the obligation to collect Court fee. There is no such obligation. In *P M Aswathanarayana Shetty v State of Karnataka* (supra), it was clearly observed (at para 96)

“The power to raise funds through the fiscal tool of a ‘fee’ is not be confused with a compulsion so to do. While ‘fee’ meant to defray expenses of services, cannot be applied towards objects of general public utility as part of general revenues, the converse is not valid. General public revenues can with justification, be utilized to meet,

wholly or in substantial part, the expenses on the administration of civil justice ” (emphasis supplied)

Is it fair on the part of State to charge Court fee for judicial services?

(Views of Commissions, Judicial dicta, views of Jurists)

There is considerable authority to say that the very concept of charging Court fee for rendering judicial services is no longer acceptable today

Law Commission's Reports

In this regard, following recommendations of the Law Commission made in 14th Report (para 42 p 509) are also worth mentioning

- “(1) it is one of the primary duties of the State to provide the machinery for the administration of justice and on principle it is not proper for the State to charge fees from suitors in courts
- (2) Even if court fees are charged, the revenue derived from them should not exceed the cost of the administration of civil justice
- (3) The making of profit by the State from the administration of justice is not justified
- (4) Steps should be taken to reduce court fees so that the revenue from it is sufficient to cover the cost of the civil judicial establishment Principles analogous to those applied in England should be applied to measure the cost of such establishment