



## The Kerala Tax on Entry of Goods into Local Areas (Amendment) Act, 2005

Act 42 of 2005

**Keyword(s):**

**Tax, Entry of Goods, Penalty, Fee, Assessing Authority**

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THE KERALA TAX ON ENTRY OF GOODS INTO LOCAL AREAS  
(AMENDMENT) ACT 2005<sup>[1]</sup>

**(ACT 42 OF 2005)**

An Act further to amend the Kerala Tax on Entry of Goods into Local Areas Act, 1994

*Preamble.*-WHEREAS, it is expedient further to amend the Kerala Tax on Entry of Goods into Local Areas Act, 1994, for the purposes hereinafter appearing;

BE it enacted in the Fifty-sixth Year of the Republic of India as follows:-

1.*Short title and commencement.*- (1) This Act may be called the Kerala Tax on Entry of Goods into Local Areas (Amendment) Act, 2005.

(2).Clause (c) of section 5 of this Act shall come into force at once and the remaining provisions shall be deemed to have come into force on the 1st day of April, 2005.

2.*Amendment of Section 3.*—In sub-section (1) of section 3 of the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994), (hereinafter referred to as the principal Act)) for the words “Kerala General Sales Tax Act” the words “Schedule to the Kerala General Sales Tax Act, 1963 or the Kerala Value Added Tax Act, 2003” shall be substituted.

3.*Insertion of new section 10A.*-In the principal Act, after section 10, the following section shall be inserted, namely:-

“10A *Further mode of recovery.*- (1) The assessing authority may at any time or from time to time by notice in writing (a copy of which shall be forwarded to the importer at his last address known to the assessing authority) require any court or any officer of the Central Government or of the Government of any State or Union Territory or any other person (other than an individual) from whom money is due or may become due to the importer or any court or any such officer or any other person (other than an individual) who holds or may subsequently hold money for or on account of the importer to pay to the assessing authority, either forthwith if the money has become due or is so held or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount due by the importer in respect of arrears of tax fee or penalty or the whole of the money when it is equal to or less than the arrears of tax, fee or penalty.

(2)The assessing authority may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any court, officer or other person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the importer and the receipt by the assessing authority shall constitute a good and sufficient discharge of the liability of such court, officer or other person to the extent of the amount referred to in the receipt.

(4) Any court or person other than an officer of the Government making any payment to the importer after receipt of the notice referred to in this section shall be liable to the assessing authority to the extent of the payment made or to the extent of the liability of the importer for the amount due under this Act, whichever is less.

(5) Where any court or person other than an officer of the Government to which or to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by it or him to the importer or that such court or person does not hold any money for or on account of the importer, then nothing contained in this section shall be deemed to require such court or person to pay the sum demanded or any part thereof to the assessing authority.

(6) Any amount which a court or person other than any officer of the Government is required to pay the assessing authority or for which it or he is liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of such court or person, as the case may be, and may be recovered as if it were an arrear of public revenue due on land.

*Explanation.*-For the purposes of this section, the amount due to an importer or money held for or on account of an importer by any court, officer or other person shall be computed after taking into account such claims if any, as may have fallen due for payment by such court, officer or other person, as the case may be, and as may be, lawfully subsisting.”.

4. *Insertion of new section 14AB.*-In the principal Act, after section 14AA, the following sections shall be inserted, namely:-

“14AB. *Revision by the High Court.*- (1) Any officer empowered by the Government in this behalf or any other person objecting to an order passed by Appellate Tribunal under section 14A may, within ninety days from the date on which a copy of such order is served on him in the manner prescribed, prefer a petition to the High Court on the ground that Appellate Tribunal has either decided erroneously or failed to decide any question of law:

Provided that the High Court may admit a petition preferred after the period of ninety days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within the said period.

(2) The petition shall be in the prescribed form and shall be verified in the prescribed manner and where it is preferred by a person other than an officer

empowered by the Government under sub-section (1) it shall be accompanied by a fee of two thousand rupees.

(3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily:

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard.

(4) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal with the opinion of the High Court on the question of law raised, or pass such order in relation to the matter as the High Court thinks fit.

(5) Where the High Court remits the matter under sub-section (4) with its opinion on the question of law raised, the appellate Tribunal shall amend the order passed by it in conformity with such opinion.

(6) Before passing an order under sub-section (4) the High Court may, if it considers it necessary so to do, remit the petition to the Appellate Tribunal, and direct it to return the petition with its finding on any specific question or issue.

(7) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the order against which the revision has been preferred:

Provided that the High Court may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the petition, if the petitioner furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.

(8) The High Court may, on the application of any party to a revision under this section, review any order passed by it on the basis of the discovery of new and important facts which after the exercise of due diligence were not within the knowledge of the applicant or could not be produced by him when the order was made.

(9) The application for review shall be preferred in the prescribed manner and within one year from the date on which a copy of the order to which the application relates was served on the applicant in the manner prescribed and, where it is preferred by a person other than an officer empowered by the Government under sub-section (1), it shall be accompanied by a fee of one thousand five hundred rupees.

(10) If, as a result of the revision or review, any change becomes necessary in any assessment, the High Court may direct the assessing authority to amend the assessment

accordingly, and on such amendment being made any amount paid in excess by any person shall be refunded to him, or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

*14AC. Revision petitions to the High Court to be heard by a Bench of not less than two judges.*—Every revision preferred to the High Court under section 14AB shall be heard by a Bench consisting of not less than two judges, and in respect of such revision petition, the provisions of section 98 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) shall so far as may apply.”.

5. *Amendment of the Schedule.*—In the Schedule of the principal Act,—

(a) for the entry against item (vi) of serial number 34, the following entry shall be substituted, namely:—

“Other Petroleum products not elsewhere mentioned in this Schedule”;

(b) the entry against serial number 50 shall be omitted.

(c) after serial number 66 and the entry against it, the following serial numbers and entries shall respectively be added, namely:—

“67. Paper bags.

68. Atta, maida, sooji.

69. Paper and paper products excluding newsprint imported by News paper publishers.”.

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