

Kerala Finance Act, 2003**12 Of 2003**

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An Act to give effect to certain financial proposals of the Government of Kerala for the financial year 2003-2004 whereas it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2003-2004; BE it enacted in the Fifty-fourth Year of the Republic of India as follows:-

1. Short Title And Commencement :-

(1) This Act may be called the Kerala Finance Act, 2003.

(2) Sub-section (4) of section 2 shall be deemed to have come into force on the 1st day of April, 1984, sub-section (2) of section 4 shall be deemed to have come into force on the 1st day of July, 2003 and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 2003.

2. Amendment Of Act 1 Of 1077 :-

In the Abkari Act, 1077 (1 of 1077),-

(1) in section 3,-

(a) after clause (2), the following clauses shall be inserted, namely:-

(2a) Blending. -"Blending" means the mixing of two different spirits of the same or different strength;

(2b) Bonded Warehouse. -"Bonded Warehouse" means a warehouse where liquor is stored in bond;"

(b) after clause (4), the following clause shall be inserted, namely:-

"(5) Compounding. -"Compounding means the preparation of

foreign liquor by the addition of flavouring or colouring matter or both, to imported or Indian made spirits;";

(c) in clause 19, after the word "prepared" the word compounded" shall be inserted:

(d) after clause (24), the following clause shall be added, namely:-

"(25) Warehouse. -"Warehouse" means that part of a distillery, brewery, winery or other manufactory where liquor intended for issue is kept and includes a warehouse established under a special licence taken out under the Act or Rules.";

in section 14, in clause (b), after the words "deposited and kept", the words "with or" shall be inserted;

for section 17, the following section shall be substituted, namely: -

"17. Duty on liquor or intoxicating drugs:-- A duty of excise or countervailing duty and or luxury tax shall be levied, in such manner as may be prescribed, on liquors or intoxicating drugs,-

permitted to be imported under section 6; or

manufactured under any licence granted under section 12; or

(c) manufactured at any distillery, brewery, winery or other manufactory established under section 14:

Provided that no duty or gallonage fee or vend fee or other taxes shall be levied under this Act on rectified spirit including absolute alcohol, which is not intended to be used for the manufacture of potable liquor meant for human consumption.

Explanation.- No liquor or intoxicating drug shall be permitted to be exported unless the duties, taxes, fees and such other sums as are due to the Government under this Act in respect of such liquor .or intoxicating drug have been paid or a bond for such payment on its exportation of re- exportation has been executed.";

(4) in section 18, -

(a) for the marginal heading "How duty may be imposed", the marginal heading "How duty or countervailing duty may be imposed" shall be substituted;

(b) in sub-section (1), -

(i) for the opening words "such duty of excise may be levied", the words, "such duty of excise or countervailing duty may be levied "and collected" shall be substituted;

(ii) for clause (a) the following clause shall be substituted, namely:

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(a) in the case of spirit or beer, either on the quantity produced in or passed out of a distillery, brewery, winery or other manufactory licensed or established under section 12 or section 14, as the case may be, or in accordance with such scale of equivalents, calculated

on the quantity of materials used or by the degree of attenuation of the wash or wort or on the value of liquor, as the case may be, as the Government may prescribe:";

(iii) for clause following clause shall be substituted, namely: -

"(b) in the case of intoxicating drugs, on the quantity produced or manufactured under a licence granted under section 12 or issued from a warehouse licensed or established under section 12 or section 14;"

(iv) for clause (f), the following clause shall be substituted, namely:-

"(f) in the case of import of spirits, beer or intoxicating drugs, in such manner as may be prescribed.";

(c) for the existing sub-sections (2) and (3), the following sub-sections shall be substituted, namely: -

"(2) The duty of excise or countervailing duty under sub-section (1) shall be levied and collected at such rates as may be fixed by the Government, from time to time, by notification in the Gazette, not exceeding the rates specified below:-

Duty of excise Maximum Rates

(i) Duty of excise, on liquors (Indian made) Rs. 200 per proof litre or an amount equal to 200 per cent of the value of the liquor whichever is higher

(ii) Duty of excise on intoxicating drugs Rs. 1.50 per gram.

(iii) Duty of excise in form of tax on trees tapped for toddy. Rs. 50 per tree per half-year or part thereof.

Provided that the excise duty or countervailing duty shall be payable by manufacturer or importer of the liquor or intoxicating drugs as the case may be:

Provided further that such duty or countervailing duty may be paid by any subsequent dealer on behalf of the manufacturer or importer, as the case may be.

Explanation. -Where any liquor is chargeable with duty of excise or countervailing duty at a rate depending on the value of the liquor, such value shall be the value at which the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited purchases such liquor from the supplier and in case any such liquor is not purchased by the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited such value shall be the value fixed by the Commissioner.

(3) The luxury tax on liquor or intoxicating drugs shall be levied and collected..-

(i) in the cases of any liquor in the form of a fee for licence for the sale of the liquor and in the form of a gallonage fee or vending fee or in any one of such forms and.

(ii) in the case of an intoxicating drug, in the form of a fee for licence for the sale of the intoxicating drug.

(4) The luxury tax under sub-section (3) shall be levied at such rates as may be fixed by the Government, from time to time, by notification in the gazette, not exceeding the rates specified below:-

Luxury tax

(a) when levied in the form of a fee for licence for sale of foreign liquor (Indian made)

(i) for licence for sale of foreign liquor in wholesale

Rs. 15,000 (Rupees fifteen thousand) for a year or part thereof.

(ii) for licence for sale of foreign liquor in hotels or restaurants Rs. 12,000 (Rupees twelve thousand) for a year or part thereof.

(iii) for licence for sale of medicated wines Rs. 1,000 (Rupees one thousand) for a year or part thereof.

(iv) for licence for sale of foreign

liquor in non- proprietary club to

members Rs. 1,500 (Rupees one thousand and five hundred) for a year or part thereof.

(b) When levied in the form of gallonage fee Rs. 10 (Rupees ten) per bulk litre or Rs. 45.46 per bulk gallon.

(c) When levied in the form of a fee

for licence for the sale of foreign

liquor (foreign made)

(i) in wholesale Rs. 25,00,000 (Rupees twenty-five lakhs) for a year or part thereof

(ii) in retail Rs. 10,00,000 (Rupees Ten lakhs) for a year or part thereof

(iii) in hotels or restaurants Rs. 25,00,000 (Rupees Twenty- five lakhs) for an .year or part thereof

(iv) in non-proprietary clubs to its members Rs. 10,00,000 (Rupees Ten lakhs) for a year or part thereof.

(v) in Seamens and Marine Officers club to its members Rs. 10,00,000 (Rupees Ten lakhs) for a year or part thereof.

(d) When levied in the form of gallonage fee

(i) foreign liquor (foreign made) other than beer and wine Rs. 200

(two hundred) per bulk litre.

(ii) for foreign made beer and wine Rs. 25 (Rupees Twenty-five) per bulk litre.

Provided that where there is a difference of duty of excise, countervailing duty or luxury tax as between two licence periods, such difference may be collected in respect of all stocks of foreign liquor or intoxicating drugs held by, licencees at the close of the former period.

Explanation. -The expression "Foreign Liquor" (foreign made) means any liquor produced, manufactured or blended and compounded abroad and imported into India by land, air or sea.";

(5) in section 29, for the marginal heading and sub-section (1), the following shall be substituted, namely :-

"29. Power to make rules. - (1) The Government may, by notification in the Gazette, either prospectively or retrospectively, make rules for the purposes of this Act.".

3. Amendment Of Act 32 Of 1976 :-

In the Kerala Tax on Luxuries Act, 1976,-

(1) in section 4. in sub-section (3) after the words "into a Government Treasury", the words "or a Nationalised Bank notified by Government in this behalf" shall be added:

(2) in sub-section (1) of section 9, in clause (c), after the words "Chartered Accountant" the words "or Cost Accountant" shall be inserted.

4. Amendment Of Act 15 Of 1994 :-

In the Kerala Tax on Entry of Goods into Local Areas Act. 1994: -

(1) in section 2,-

(i) in clause (d) of sub-section (1), after the word "use", the word "consumption" shall be inserted;

(ii) for clause (g), the following clause shall be substituted, namely: -

"(g) "importer" means a person who brings or cause to be brought any goods whether for himself or on behalf of his principal or any other" person, into a local area, from any place outside the State for use, consumption or sales therein or who owns the goods at the time of entry into the local area.";

(2) in section 3, in sub-section (1), for the second sentence, the following sentence shall be substituted, namely: -

"The tax on such goods shall be at such rate or rates as may be

fixed by Government by notification, on the purchase value of goods not exceeding the tax payable for the goods as per the Kerala General Sales Tax Act, 1963;";

(3) in section 5, for the words the Agricultural Income Tax and Sales Tax Department", the words "the Agricultural Income Tax and Commercial Taxes Department" shall be substituted;

(4) in section 9A,-

(1)" in sub-section (1), -

(i) after the words "intercept any motor vehicle," the words, " or motor vehicle carrying goods" shall be inserted:

(ii) after the words "documents relating to the vehicles", the words "and the goods" shall be inserted;

in sub-section (3), after the words "owner of the vehicle", the words "or owner of the goods" shall be inserted;

in sub-section (4) for the words "payable on such motor vehicle", the words "payable on such motor vehicle or goods" shall be substituted;

for the existing proviso to sub-section (4), the following proviso shall be substituted, namely:-

"Provided that no such order shall be passed unless the owner of the vehicle or goods or any person duly "authorised by him has been afforded a reasonable opportunity of being heard.";

(5) in section 10, for the words. "Government Treasury" wherever they occur, the words "Government Treasury or any Bank notified by Government" shall be substituted;

in section 18A, in clause (c) of sub-section (1), after the words "a chartered accountant", the words "or a cost accountant" shall be inserted;

after section 19 the following sections shall be added, namely:-

"20 Power to amend the Schedule : - (1) The Government may, by notification in the Gazette, add, omit or amend any entry in the Schedule to this Act but not so as to enhance the rate in any case.

(2) Where a notification has been issued under sub-section (1), there shall, unless the notification is in the meantime rescinded, be introduced in the Legislative Assembly as soon as may be but in any case during the next session of the Assembly following the date of issue of the notification a Bill to give effect to the addition, omission or amendment of the entries in the Schedule specified in the notification, and the notification shall cease to have effect when such Bill becomes law, whether with or without modification, but without prejudice to the validity of anything previously done thereunder :

Provided that if the notification under sub-section (1) is issued when the Legislative Assembly is in session, such a Bill shall be introduced in the Assembly during that session:

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly, the notification shall cease to have effect on the expiration of the said period of six months.

21. Authority. - (1) The Commissioner of Commercial Taxes shall have and exercise all the powers and shall perform all the duties conferred or imposed upon it by or under this Act.

(2) the Commissioner shall have superintendence over all officers and the persons employed in the execution of this Act.

(3) The Commissioner may,-

call for returns from such officers and persons;

make and issue general rules and prescribe form for regulating the practice and proceedings of such officers and persons;

(c) issue such orders, instructions and directions to such officers and persons as it may deem fit for the proper administration of the Act;

(d) The Commissioner shall have power to order refund of entry tax paid, in cases where the goods are proved to be transported for the purpose of a replacement.";

(8) in the Schedule,-

(a) for the entry against serial number 18, the following entry shall be inserted, namely : - .

"18. Scanning Machine including photo imaging machine not elsewhere mentioned, in the Schedule.";

(b) for the entry against serial number 23, the following entry shall be inserted, namely:- . . .

"23. Body built on chassis of motor vehicles including components, parts, accessories, kits or otherwise.";

(c) for the entry against serial number 26, the following entry shall be inserted, namely :-

"26. Electrical goods, instruments, apparatus, appliances, hotplate, lighting bulbs, electrical earthen wire, porcelain and all other accessories and components parts either as a whole or in part.";

(d) after serial number 34, the following entries shall be added, namely: -

"35. Computer paper

Caustic Soda

Battery other than dry cell and button cell

Medical equipments, Hospital equipments, Surgical equipments

(other than consumable or disposable) including Dental chair

Readymade garments and hosiery goods

Weighing Machine, Weighing Bridges , parts and accessories thereof

41. Automatic Teller Machines

42. Automotive LPG

43. Liquified Natural Gas (Compressed "Natural Gas").