

**Kerala General Sales Tax (Amendment) Act, 1995****11 of 1995**

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**Kerala General Sales Tax (Amendment) Act, 1995****11 of 1995**

An Act further to amend the Kerala General Sales Tax Act, 1963. Whereas it is expedient to amend the Kerala General Sales Tax Act, 1963 for the purposes hereinafter appearing; Be it enacted in the Forty-sixth Year of the Republic of India as follows:-

**1. Short Title And Commencement :-**

( 1 ) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1995.

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

**2. Amendment Of Section 2 :-**

In section 2 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),

(1) after item (b) of Explanation 4 of clause (xxi), the following item shall be inserted, namely:

"(c) for the purpose of this Act, the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract shall be deemed to have taken place in the State, if the goods are within the State at the time of such transfer, irrespective of the place where the agreement of works contract is made, whether the assent of the other party to the contract is prior or subsequent to such transfer.";

(2) to clause (xxv), the following proviso shall be added, namely:

"Provided that the taxable turnover of a dealer in respect of transfer of property involved in the execution of works contract shall, during the period commencing on and from the 1st day of April, 1984 and ending with the 31st day of March, 1991, be arrived at after deducting the amounts mentioned in section 5C."

(3) in clause (xxvii), to Explanation IA, the following Note shall be added, namely:

"Note. Sub-clause (i) to Explanation IA as substituted by the Kerala Finance Act, 1987 (18 of 1987) shall be deemed to have come into force on the 1st day of April, 1984."

### **3. Insertion Of New :-**

section 5C. After section 5B of the principal Act, the following section shall be inserted, namely:

"5G. Deduction of certain amounts in arriving at the taxable turnover of a dealer in respect of transfer of property in the execution of works contract. The taxable turnover of a dealer in respect of transfer of property involved in the execution of works contract shall, during the period commencing on and from the 1st day of April, 1984 and ending with the 31st day of March, 1991, be arrived at after deducting the following amounts from the total amount received or receivable by the dealer for the execution of the contract

(a) all amounts relating to the sale of any goods involved in the execution of works contract which are specifically exempted from tax under any of the provisions of this Act;

(b) all amounts paid to the sub-contractors as consideration for execution of works contract whether wholly or partly:

Provided that no such deduction shall be allowed unless dealer claiming deduction, produces proof that the sub-contractor is a registered dealer liable to pay tax under this Act and that the turnover of such amounts is included in the return filed by such sub-contractor; and

(c) all amounts towards labour charges and other service charges such as

(i) charges for planning and designing and the architects fee;

(ii) charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract;

(iii) cost of consumables used;

(iv) cost of establishment of the dealer;

(v) profit earned by the dealer to the extent it is relatable to supply

of labour and services:

not involving any transfer of property in goods, and actually incurred in connection with the execution of the works contract; or such amounts calculated at the rate specified in column (3) of the Table below, if they are not ascertainable from the books of accounts maintained and produced by the dealer.

THE TABLE		
Serial Number	Type of works contract	Labour or other charges as a percentage value of the works contract
(1)	(2)	(3)
1	Electrical contracts	20
2	All structural contracts	30
3	Sanitary contracts	33.5
4	Retrading contracts	50
5	Dyeing and Textile Printing contracts	50
6	Photography and Printing contracts	30
7	Sculptural contract or contract relating to arts	70
8	Refrigeration, air conditioning or other machinery, rolling shutters, cranes, installation contracts	15
9	All other contracts	30

#### **4. Validation :-**

(1) Notwithstanding any judgement, decree or order of any court, tribunal or other authority, any assessment, levy or collection of any tax on the turnover of a dealer in respect of transfer of property in the execution of works contract, during the period commencing on and from the 1st day of April, 1984 and ending with the 31st day of March, 1991 made or purporting to have been made under the principal Act before the 18th day of May, 1995, shall be deemed to be as valid and effective as if such assessment, levy or collection had been made under the principal Act as amended by this Act, and accordingly

(a) all acts, proceedings or things done or taken by any officer or authority in connection with the assessment, levy or collection of such tax shall, for all purposes, be deemed to be, and to have always been, done or taken in accordance with law;

- (b) no suit or other proceedings shall be maintained or continued in any Court, Tribunal or other authority for the refund of any such tax so collected;
  - (c) no court shall enforce any decree or order directing the refund of any such tax so collected; and
  - (d) any such tax assessed under the principal Act before the 18th day of May, 1995, but not collected before that date, shall be recovered in the manner provided under the principal Act as amended by this Act and the rules made thereunder.
- (2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any tax paid by him in excess of the amount due from him under the principal Act as amended by this Act.

## **5. Repeal And Saving :-**

- (1) The Kerala General Sales Tax (Amendment) Ordinance (11 of 1995), is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.