

Kerala Panchayat Raj (Taxation, Levy And Appeal) Rules, 1996

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Kerala Panchayat Raj (Taxation, Levy And Appeal) Rules, 1996

S.R.O. No. 110/96. — In exercise of the powers conferred by Section 210 and 241 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of

Kerala hereby make the following rules, namely:-

1. Short title and commencement :-

(1) These rules may be called the Kerala Panchayat Raj (Taxation, Levy and Appeal) Rules, 1996.

(2) They shall come into force at once.

2. Definitions :-

In these rules, unless the context otherwise requires,-

(a) Act means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Procedure for passing resolution determining the levy of tax :-

Any resolution passed by Panchayat for levying any tax enumerated in the Act shall specify the rate at which and the date from which any such tax shall be levied.

Provided that the Panchayat shall before passing any resolution for levying tax for the first time or for increasing the rate of an existing tax, publish a notice at least in one newspaper published in the main language of the locality, on the notice board of the Panchayat and in the places specified by the Panchayat and advertise by using pamphlet and loudspeaker of such intention, fix a reasonable period not being less than thirty days for submission of objections and consider the objections, if any, received within the period specified.

Provided further that any resolution passed for abolishing an existing tax or for reducing the rate of tax at which it is levied, shall be reported to the officer authorised by the Government for this purpose and such reduction or abolition shall not be carried out into effect without the sanction of the officer authorised by the Government for this purpose: Provided also that, where any resolution under this rule has been put into effect for a particular year, no proposal to alter the rates or date of effect fixed in such resolution shall be taken into consideration in that year by the Panchayat.

4. Publication of new taxes :-

If a Panchayat, subject to the provisions in these rules, decides to

levy any tax for the first time or at a new rate, the Secretary shall publish forthwith a notice on the Notice Board of the Panchayat and at places specified by the Panchayat specifying the rate at which, the date from which and the period if any, for which such tax shall be levied and this information shall be advertised by using pamphlets and loudspeakers.

5. Secretary to maintain assessment books :-

(1) The Secretary shall maintain the assessment books in the specified form and such books shall contain the name and details of the persons and properties which may be liable to be taxed under the Act.

(2) Notwithstanding anything contrary contained in any other rules issued under the Act, the assessment books and where detailed particulars relating to any assessment of tax are kept in separate records, the portion thereof containing such particulars, shall be kept open at all reasonable times for inspection, free of charge, by any person who pays any tax to the panchayat or his authorised agent and such person or agent shall be entitled to take extracts, free of charge, from any part of such books and records.

(3) Notwithstanding anything contrary contained in any other rules issued under the Act, the account books of the Panchayat shall be kept open on any day or days fixed by the Panchayat in each month for inspection, free of charge, by any person who pays any tax to the Panchayat or his authorised agent.

6. Standing Committee to assess tax :-

The Standing Committee shall, save as otherwise provided in the Act and the rules made thereunder, assess the tax which each person is liable to pay:

Provided that, in- the case of taxes liable to be paid by the members of the Standing Committee, the original assessment shall be made by the Panchayat.

7. Powers of Panchayat to give directions to amend assessment books :-

(1) If it appears to the Panchayat at any time that any person or property has been inadequately assessed or that such person or property has been inadvertently or improperly omitted from the assessment books or that there is any clerical or arithmetical error

in the said books relating to any tax, it may direct the Standing Committee to amend the said books in such manner as it may deem just or necessary:

Provided that where it involve an increase in the tax or any imposition of fresh tax, no such direction shall be given, unless the person concerned has been given a reasonable opportunity to show cause before the Panchayat as to why the assessment books should be amended as proposed.

(2) Such amendment shall be deemed to have come into force from the current year on which the circumstances justifying the amendment was in existence or in the two half years immediately preceding the amendment whichever is earlier.

8. Service of Bill :-

(1) Where any tax is due from any person, the Secretary shall, save as otherwise provided in the Act or rules made thereunder, serve upon such person a bill for the sum due.

(2) The bill under sub-rule (1) shall be signed by the Secretary and shall contain the following matters,-

(a) the date of issue thereof;

(b) the period or periods for which the tax is levied and a statement regarding that period or periods.

(c) description of the occupation, building, land or property for which the tax is levied;

(d) the last date or dates for the payment of tax; and

(e) a statement regarding the liability for default, if any, made in remittance of money.

(3) Where a bill referred to in sub-rule (1) relating to profession tax has not been served either in the half year to which the tax is related or in the succeeding half year, the tax for the half year first mentioned shall not be demanded.

9. Issuance of receipt :-

(1) The Secretary shall, to every person making payment of tax, issue a receipt signed by him or by any other person duly authorised by him for that purpose.

(2) Such receipts shall specify the following matters,-

(a) the date of issue;

(b) name of the person to whom it is issued;

(c) the tax in respect of which remittance has been made;

(d) the period for which payment has been made; and

(e) the amount paid in (in figures and words).

10. Appeal :-

(1) Appeal shall lie to the Panchayat in respect of any assessment and levy of any tax made by the Standing Committee.

(2) Appeal shall be filed in writing within 30 days from the date of receipt of the bill under sub-rule (1) of Rule 8 and shall specify the objections and reasons for appeal precisely and distinctly.

11. Procedure on appeal :-

The Panchayat may on its own motion or otherwise, within fifteen days of service of notice to the person concerned and after considering the objections, if any, submitted by him after service of notice, cancel or modify any order passed by the Standing Committee reducing, or remissioning or enhancing a tax.

12. Appeal on the decision of the Panchayat :-

(1) Any person having objection on the decision taken by the Panchayat under Rule 11 regarding the issuance of any notice or other proceedings taken by a Panchayat may file an appeal before the officer authorised by the Government in this behalf under sub-section (2) of Section 276 of the Act within thirty days from the date of receipt of such notice or order.

(2) No appeal shall be filed against the imposition of tax unless the tax demanded in the demand notice has been remitted.

(3) The officer authorised in this behalf may, on receipt of a petition under sub-rule (1), pass appropriate orders on such petition and until such order is passed, if deemed necessary, give directions to the Panchayat in writing to keep in abeyance all proceedings which is a subject matter in the appeal.

(4) The said officer shall, after examining the appeal and records give an opportunity to the persons concerned for personal hearing, take final decision on the appeal not later than three months and communicate the decision taken to the persons concerned in writing. (5) The above said decision shall be final as far as the appeal is concerned.

13. Implementation of the decision on appeal :-

The assessment books shall be corrected in accordance with the decision on the appeal and in the event of reduction or remission of

tax, the excess amount remitted shall be refunded: Provided that if any sum is due to the Panchayat from the assessee that may be set off against such sum to be refunded and if there is no such sum due and if the assessee requests the president to adjust the said sum towards any amount that may become payable by him in future and it shall be credited accordingly.

14. Notice to be served before enforcing provisions of distraint :-

(1) The Secretary shall, where any tax due from any person has not been remitted on or before the due date, serve upon such person a demand notice requiring him to pay the tax together with notice fee of one rupee and the cost of service of the notice if sent by registered post, within fifteen days from the date of service of notice, before taking the proceedings under Section 210 of Act.

(2) Notice under sub-rule (1) shall be signed by the Secretary and shall contain the following matters,-

(a) a statement regarding the period for which the tax is imposed, and description regarding the occupation, property or institution on which the tax is imposed;

(b) the amount of tax, fee of demand notice and cost of notice is sent by registered post;

(c) the date from which tax is due; and

(d) statement of the liability incurred on account of the default in remitting money.

15. Recovery by distraint :-

If the amount due on account of any tax together with the fee of demand notice and the cost of service of the notice is not paid within fifteen days from the date of service of the notice and if the person from whom the tax is due has not shown cause to the satisfaction of the Secretary as to why it should not be remitted, the Secretary may, by distraint under warrant and by sale of the movable property of the defaulter, recover the amount due on account of the tax together with demand notice fee, cost of service of notice, warrant fee including the distraint fee together with such further sum that is sufficient for a meeting the actual expenses for the safe custody and sale of the property so distrained; Provided that movable property described in the proviso to Section 60 of the Code of Civil Procedure, 1908, shall not be distrained.

(2) The warrant under sub-rule (1) shall be in Form No. 1

appended to these rules and for each such warrant a fee of five rupees shall be levied.

16. Civil suit for recovery of arrears :-

Nothing contained herein shall bar the Panchayat from filing suit in a civil court for the recovery of any tax due to the Panchayat under the Act.

17. Power of the officer conferred with duty to execute warrant :-

Any officer conferred with the duty to execute a warrant of distress under a special order of the Secretary in writing, it has reason to believe that any building contains property which is liable to be seized, may, in case it is not possible to obtain entry otherwise even after informing his authority and purpose and making a proper request for entry to execute distress, open or break open any outer or inner door or window or other obstruction in such building or cause the same to be done between sunrise and sunset: Provided that such officer shall not enter or break open the door of any room apportioned for the use of women until three hours, notice of his intention has been given and an opportunity has been given to such women to withdraw.

18. Procedure for seizure of property :-

The officer conferred with the duty to execute a warrant shall, before making the distraint, demand the remittance of the tax due and the warrant fee. If the tax and fee are remitted no distraint shall be made, but where the tax or fee is not remitted, the officer shall, -

- (a) seize the movable property of the defaulter as he may think necessary;
- (b) make an inventory of the property seized in the presence of two witnesses; and
- (c) give to the person in possession of the property seized, at the time of the seizure, a copy of the inventory and sale notice in Form No.2 appended to these rules; Provided that a period of seven days shall be allowed for remitting the amount due and redeeming the property seized.

19. Distress not to be excessive :-

The cost of the properties distrained shall, as far as possible, be equal to the sum total amount of the tax due from the defaulter together with all expenses that may be incurred on account of the warrant, distraint, keeping in safe custody and sale.

20. Sale of property distrained :-

(1) If the amount due from the defaulter on account of tax, warrant fee, distraint fee and the expenses incurred on account of the safe custody of properties are not remitted within the period of seven days mentioned in the notice given under Rule 18 and if the distraint warrant is not suspended by the Secretary, the properties seized or a sufficient portion thereof shall be sold by public auction under the orders of the Secretary who shall apply the proceeds of the sale for the payment of the amount due on account of the tax, the warrant fee, the distraint fee and the expenses incurred on account of the detention and sale of property and shall return any property or sum which remains after the application of the sale proceeds as aforesaid to the person in whose possession the property was at the time of seizure. If the proceeds of the sale are insufficient for the payment of the amount due on account of the tax, the warrant fee and distraint fee and the expenses incurred on account of the detention and sale of the property, the Secretary may again proceed under Rule 15 in respect of the sum remaining unpaid.

(2) The Secretary may sell the properties seized at any time before the expiry of the said period of seven days if the properties seized are subject to speedy and natural decay and the amount due is not paid soon.

(3) The distrainor shall, if the defaulter agrees to remit the arrears for the realisation of which the property has been distrained, together with incidental expenses, before the date of sale, receive the amount, issue receipt and release the property forthwith.

21. Secretary to consider objections :-

The Secretary shall consider any objection submitted within the said period of seven days regarding the distraint made and may postpone the sale pending investigation thereof. If the Secretary decides that the property attached should not have been distrained, he shall return it or if it has already been sold out, give the amount obtained out of the sale to the person found to be entitled thereto. The Secretary may, if he is convinced that the first

defaulter wilfully permitted the distraint of the property when it was not liable to such distraint to his knowledge again take the proceedings under Rule 15, and shall recover from the defaulter all fees and expenses connected with the first distraint and sale.

22. Power of Government to call for records :-

The Government or any officer authorised by the Government in this behalf may, call for the records relating to any distraint of any property made under these rules and after conducting such inquiry as they or he may deem fit, pass such orders as are found necessary. The Secretary shall enforce such orders.

23. Levy of fees on distraint :-

(1) There shall be levied fees on distraints made under these rules according to the value of the property distrained and the rates specified below: The Sum distrained for Fees

Upto rupees 10- 2 00

Above rupees 10 and upto rupees 25- 5 00

Above rupees 25 and upto rupees 50- 10 00

Above rupees 50 and upto rupees 100- 20 00

Above rupees 100, 2 .00 rupees each for every 10 rupees

(2) The above rates shall include all expenses to keep the property distrained.

(3) The fees levied under this rule shall not include the cost of maintenance of any livestock distrained.

24. Distraint to be confined to properties within the Panchayat area :-

The property of a person who is in default under Rule 15 may be distrained wherever it may be found within the Panchayat area.

25. Distraint of property belonging to occupier of a building :-

If the tax due on account of any building remains unpaid in whole or in part at the end of the period specified in Rule 15, the Secretary may require the occupier of the building for the time being , to pay the amount within a specified period not less than fifteen days and if the occupier fails to comply with such requisition, the Secretary may distrain and sell any movable property found in that building and the provisions in the foregoing

rules shall mutatis mutandis apply to all distraints and sales effected under this rule. No such occupier shall be subjected to prosecution or civil proceedings in respect of any sum that is recoverable from him under this rule unless he has wilfully prevented the distraint or sufficient distraint.

26. Realisation of tax, from a person who has left the State or cannot be found :-

If any tax due from any person remains unpaid in whole or in part at the end of the period specified in Rule 15 and if such person has left the State or cannot be found, the said tax or such part thereof as remains unpaid together with all sums payable in connection therewith shall be recoverable as if it were an arrear of land revenue.

27. Magistrate to recover tax, warrant fee etc :-

(1) Any person subjected to prosecution under the second proviso to Section 210, if proved to the satisfaction of the Magistrate to have wilfully defaulted payment of the amount due or have wilfully obstructed the distraint or sufficient distraint, shall be liable to pay,-

(a) the tax and warrant fee if any; and

(b) the distraint fee, if distraint has taken place, the expenses, if any, incurred on account of the detention and sale of the property distrained and fine not exceeding twice the amount that is due from him.

(2) Whenever any person is convicted of an offence under sub-rule (1), the Magistrate shall, in addition to any fine which may be imposed, by summary disposal recover amounts, if any, due under the items specified in clauses (a) and (b) of sub-rule (1) and also recover such amounts as may be fixed by him, if any, as costs of the prosecution proceedings and pay the same to the panchayat.

28. The Secretary, Panchayat Employees and the Committee Members not to purchase any property directly or indirectly :-

The Secretary, any panchayat employee or any member of the Panchayat Committee shall not directly or indirectly purchase any property at any sale of distrained property held under these rules.