

THE KERALA SURCHARGE ON TAXES ACT, 1957

(Act 11 of 1957)

[Amended by Acts 12 of 1960, 2 of 1966, and 10 of 1968 and 16 of 1970]

An Act to provide for levy of surcharges on certain taxes.

Preamble.- WHEREEAS it is considered necessary to increase the taxes on agricultural income, taxes on the sale or purchase of goods and taxes on profession, by the levy of a surcharge on such taxes;

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

1. *Short title, extent and commencement.*- (1) This Act may be called the Kerala Surcharge on Taxes Act, 1957.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification, in the Gazette, appoint.

2. *Levy of surcharge on agricultural income-tax.*- The ["Agricultural income tax"] payable by any person ["other than a company"] assed to such tax under the ["The Kerala Agricultural Income Tax Act, 1991"] shall be increased by a surcharge at the rate of [ten per centum] of the tax payable each year, and the provisions of the ["The Kerala Agricultural Income Tax Act, 1991"] shall [apply in relation to the said surcharge as they apply in relation to the ["Agricultural income tax "] payable under the said Act]

[**Explanation.**- In this section, company shall have the same meaning as in the Agricultural Income-tax Act, 1950.]

3. *Levy of surcharge on sales and purchase taxes.*- ["(1) The tax payable under sub-section (1) of section 5 of the Kerala General Sales Tax Act, 1963, by

a dealer in foreign liquor shall be increased by a surcharge at the rate of ten per cent, and the provisions of the Kerala General Sales Tax Act, 1963 shall apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act”.]

Provided that where in respect of declared goods as defined in clause (c) of section 2 of the Central Sales Tax Act, 1956 the tax payable by such dealer under [the Kerala General Sales-Tax Act, 1963] together with the surcharge payable under this sub-section, exceeds [four per centum] of the sale or purchase price, the rate of surcharge in respect of such goods shall be reduced to such an extent that the tax and the surcharge together shall not exceed [four per centum] of the sale or purchase price.

(2) Notwithstanding anything contained [in sub-section (1) of section 22 of the Kerala General Sales Tax Act, 1963] no dealer referred to in sub-section (1) shall be entitled to collect the surcharge payable under the said sub-section.

[“(3) Any dealer who collects the surcharge payable under sub-section (1) in contravention of the provision of sub-section (2) shall be punishable with fine which may extent to one thousand rupees and no court below the rank of a Magistrate of the first class shall try any such offence.”]

[“4. *Penalty for illegal collection of surcharge.*- (1) If any person collects any sum by way of surcharge or purporting to be by way of surcharge in contravention of sub-section (2) of section 3, he shall be liable to pay penalty not exceeding five thousand rupees and any sum so collected by the person shall be liable to be forfeited to the Government by an order issued by the assessing authority after giving such person an opportunity to show cause why penalty or forfeiture shall not be ordered:

Provided that no penalty or forfeiture shall be ordered under this sub-section if the assessing authority is satisfied that the sum so collected has been returned to the person from whom it was collected.

(2) Where any sum is forfeited to the Government under sub-section (1) if any person from whom the amount was collected in contravention of the

provisions of sub-section (2) of section 3 may apply to the assessing authority for reimbursement of such sum and the amount shall be reimbursed to such person and the procedure prescribed for reimbursement of the tax forfeited under sub-section (1) of section 46A of the Kerala General Sales Tax Act 1963 (15 of 1963) shall mutatis mutandis apply to such reimbursement.

(3) No prosecution for an offence under sub-section (3) of section 3 shall be instituted in respect of the same facts one which a penalty has been imposed or forfeiture has been ordered under this section.”.]

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6. *Removal of difficulties.*- If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

7. *Power to make rules.*- The Government may, by notification in the Gazette make rules for carrying out the purposes of this Act.

8. *Amendment to the Madras Elementary Education Act, 1920.*- (1) The Chapter III (sections 32 to 40, both inclusive) of the Madras Elementary Education Act, 1920, as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, shall be omitted.

(2) As soon as may be after the commencement of this Act, the elementary education fund constituted for each local authority under the said Act shall be transferred to the Government by such local authority and the same shall vest in the Government free of all trusts, liabilities and encumbrances. Thereupon it shall be competent for the Government to utilize the said fund in such manner as they may deem fit.
