The Kerala General Sales Tax (Amendment) Act, 1969

Act 15 of 1969

Keyword(s):
Business, Brand Name, Casual Trader, Dealer, Declared Goods, Notified Goods

Amendments appended: 18 of 1969, 29 of 1971, 21 of 1978, 19 of 1980, 23 of 1981, 3 of 1983, 6 of 1988, 11 of 1989, 3 of 1990,11 of 1995, 10 of 1999, 4 of 2002, 3 of 2003, 7 of 2003, 11 of 2003

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Act 15 of 1969

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1969

An Act further to amend the Kerala General Sales Tax Act, 1963 .

Preamble . —WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

Be it enacted in the Twentieth Year of the Republic of 1ndia as follows: —

1. Short title and commencement . — (1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1969.

(2) Section 3 shall be deemed to have come into force on the 1st day of April, 1963, sections 4, 5 and 6 shall come into force on the 1st day of April, 1969 and the remaining provisions of this Act shall come into force at once.

2. Amendment of section 4 . — In section 4 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), in sub-section (1), for the words "who is or has been a Judicial Officer", the words "who is, or has been, or is qualified to be appointed as, a Judicial Officer" shall be substi tuted.

3. Insertion of new section 21A. — After section 21 of the princi pal Act, the following section shall be inserted, namely:—

"21A. Firm dissolved or business discontinued. — (1) Where any business carried on by a firm is discontinued or where a firm is dissolved, the assessing authority shall make an assessment of the taxable turnover of, and determine the tax payable by, the firm as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to levy of penalty or any other amount payable under any provision of this Act, shall apply, so far as may be, to such assessment and determination.

(2) Without prejudice to the generality of sub-section (1), if the assessing authority in the course of any proceedings under section 19 in respect of any such firm as is referred to in that sub-section is satisfied that the firm was guilty of wilful non-disclosure of assessable turnover, it may direct payment of a penalty in accordance with the provisions of sub-section (2) of that section.

(3) Every person who was, at the time of such discontinuance or diss olution, a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other amount payable, and

all the provisions of this Act shall apply, so far as may be, to any such assessment or direction for payment of penalty or other amount.

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of any year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of section 20 ."

4. Amendment of the First Schedule .— In the First Schedule to the principal Act, —

(a) for Serial Numbers 40 and 47 and the entries relating thereto, the following Serial Numbers and entries shall respectively be substituted, namely: —

"40. Upholstered furniture, sofa sets, dressing tables

and furniture of all types made of timber do. 7

47. Stainless steel products do. 7";

(b) for the figure "4" in column (4) against Serial Number 66, the figure "5" shall be substituted;

(c) for Serial Number 71 and the entries relating thereto, the following Serial Number and entries shall be substituted, namely: —

"71. Rubber do. 3".

5. Amendment of the Second Schedule. — *In* the Second Schedule to the principal Act, for the figure "2" in column (4) against Serial Number 6, the figure "3" shall be substituted.

6. Amendment of the Third Schedule .— *In* the Third Schedule to the principal Act, item 14 shall be omitted.

7. Validation**.** — *(I)* Notwithstanding any judgment, decree or order of any court, tribunal or other authority, any assessment, levy or collection of any tax on the turnover of a firm which has been dissolved or the business carried on by which has been discontinued, made or purporting to have been made under the principal Act before the date of publication of this Act in the Gazette 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 proceeding shall be maintained or con tinued 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 date of publication of this Act in the Gazette, but not collected before that date, may be recovered in the manner provided under the principal Act as amended by this Act and the rules made there under:

Provided that nothing contained in this section shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of publication of this Act in the Gazette, if such act or omission would not be an offence under the principal Act but for the provisions of this Act.

(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.

ACT 18 OF 1969

THE KERALA SALES TAX (LEVY AND VALIDATION) AMENDMENT ACT, 1969 [1]

An Act to amend the Kerala Sales Tax (Levy and Validation} Act, 1965.

Preamble **.** —WHEREAS it is expedient to amend the Kerala Sales Tax and Validation) Act, 1965, for the purpose hereinaft er appearing,

Be it enacted in the Twentieth Year of the Republic of India as follows: —

1. Short title. — This Act may be called the Kerala Sales Tax Levy and Validation) Amendment Act, 1969.

2. Amendment of section 4 .— In section 4 of the Kerala Sales Tax Levy and Validation) Act, 1965 (4 of 1965), for sub-section (l), the following sub-section shall be, and shall be deemed always to have been, substituted, namely: —

"(1) Notwithstanding any judgment, decree or order of any court, tribunal or other authority, all taxes levied, assessed or collected or purported to have been levied, assessed or collected under the General Sales Tax Act during the period commencing on and from the 1st day of April, 1958 and ending with the 26th day of September, 1965, on the purchase of copra or cashewnut kernel shall be deemed to have been validly levied, assessed or collected in accordance with law; and accordingly—

(i) no suit or other proceeding shall be maintained or continued in an court, tribunal or other authority for the refund of any such tax paid under the General Sales Tax Act;

(ii) no court *shall* enforce a decree or order directing the refund of any such tax paid under the General Sales Tax Act;

(iii) any such tax assessed under the General Sales Tax Act before the 27 th day of September, 1965, but not collected, may be assessed within five years of the date of publication of this Act and recovered in the manner provided under the General Sales Tax Act and the rules made thereunder.".

(iv) any such tax not assessed under the General Sales Tax Act before the 27 th day of September, 1965, may be assessed within five years of the date of publication of this Act and recovered in the manner provided under the General Sales Tax Act and the rules made hereunder."

Act 29 of 1971

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1971[1]

An Act further to amend the Kerala General Sales tax Act, 1963.

Preamble.—WHEREAS it is expedient further to amend the Kerala General Sales tax Act, 1963, for the purposes hereinafter appearing;

Be it enacted in the Twenty-second 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, 1971.

(2) It shall be deemed to have come into force on the 1 st day of April, 1971.

2. *Amendment of section 5.*—In section 5 of the Kerala General Sales tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), in sub-section (1), —

(i) for the words "ten thousand rupees", the words "twenty thousand rupees" shall be substituted;

(ii) the following proviso shall be inserted at the end, namely:

"Provided that every dealer in cooked food including coffee, tea and like articles served in a hotel, restaurant or any other place, whose total turnover in respect of such food is not less than one lakh rupees shall pay tax at the rate of four per cent on his taxable turnover.".

3. *Amendment of section 5A.*—In section 5A of the principal Act, —

(a) in sub-section (2), for the words "ten thousand rupees", the words "twenty thousand rupees" shall be substituted;

(b) in sub-section (3), —

(i) for the words "ten thousand rupees", the words "twenty thousand rupees" shall be substituted;

(ii) for the words "at the rates", the words "at the rate" shall be substituted.

4. *Amendment of section 7.*—In section 7 of the principal Act, in sub-section (1), for clauses (i) and (ii), the following clauses shall be substituted, namely: —

"(i) every dealer (other than a dealer in cooked food including coffee, tea and like articles served in a hotel, restaurant or any other place) whose total turnover in a year is

not less than twenty thousand rupees but is not more than twenty-five thousand rupees may, at his option, instead of paying the tax in accordance with the provisions of that sub-section, pay tax at the rate of one and a half per cent on his taxable turnover.

(ii) every dealer in cooked food including coffee, tea and like articles served in a hotel, restaurant or any other place, whose total turnover in respect of such food is not less than thirty-five thousand rupees but is less than one lakh rupees, may, at his option, instead of paying the tax in accordance with the provisions of that sub-section in respect of the turnover relating to such food, pay tax at the following rates: ─

	Rs.
(a) Where the total turnover is not less than thirty-five thousand rupees but is less than forty thousand rupees	540.00
(b) Where the total turnover is not less than forty thousand rupees but is less than fifty thousand rupees	720.00
(c) Where the total turnover is not less than fifty thousand rupees but is less than seventy-five thousand rupees	1,500.00
(d) Where the total turnover is not less than seventy-five thousand rupees but is less than one lakh rupees	2,250.00"

5. *Amendment of the third Schedule.*─In the third Schedule to the principal Act, in item 12, for the words "twenty thousand rupees", the words "thirty-five thousand rupees" shall be substituted.

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1978

(ACT 21 OF 1978)

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.—WHEREAS it is expedient further to amend to Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Twenty-ninth 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, 1978.

(2) It shall be deemed to have come into force on the 1st day of April, 1978.

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) in clause (viii),—

(i) sub-clause (a) shall be omitted;

(ii) for sub-clause (e), the following sub-clause shall be substituted, namely:—

"(e) a person who, whether in the course of business or not, sells—

(i) goods produced by him by manufacture, agriculture, horticulture or otherwise; or

(ii) trees which grow spontaneously and which are agreed to be severed before sale or under the contract of sale.";

(2) after clause (xvi), the following clause shall be inserted, namely:—

"(xvi) "person" includes—

(i) an individual;

(ii) a joint family;

(iii) a company:

(iv) a firm;

(v) an association of persons or a body of individuals, whether incorporated or not ;

(vi) The Central Government or the Government of Kerala or the Government of any other State or Union Territory in India;

(vii) a local authority;

(viii) every artificial juridical person not falling under any of the preceding sub-clauses;";

(3) in clause (xxi), after *Explanation (1A)*, the following *Explanation* shall be inserted, namely:—

"*Explanation (1B).*—A transfer of property in trees which grow spontaneously and which are agreed to be severed before sale or under the contract of sale by the person entitled to make such transfer, whether in the course of trade or business or otherwise, for cash or for deferred payment or other valuable consideration, shall be deemed to be a sale for the purposes of this Act.";

(4) to clause (xxvi), the following *Explanation* shall be added, namely:—

"*Explanation.*—Notwithstanding anything contained in any other provision of this Act, in the case of goods which are taxable at the point of last purchase in the State by a dealer liable to tax under section 5, and which are held as closing stock on the last day of any financial year, the amount for which such goods were purchased by the dealer shall be deemed also to be a part of his total turnover for the subsequent year or each of the subsequent years until such goods are either sold by him in the State or such purchase acquires the character of last purchase in the State in the hands of such dealer, and in case such purchase acquires the character of last purchase in the State in the hands of such dealer, the turnover in respect of such purchase shall be liable to tax in the year in which the purchase acquires the character of last purchase;".

3. *Amendment of section 3.*—In section 3 of the principal Act, after sub-section (3), the following subsections shall be inserted, namely:—

"(4) The Board of Revenue or the Deputy Commissioner may, by order in writing,—

(a) transfer any case or cases relating to any assessee or class of assesses pending before an assessing authority to another assessing authority having jurisdiction to deal with such case or cases; or

(b) specify one of the assessing authorities having jurisdiction over an area, which shall deal with any case or cases relating to any assessee or class of assesses.

(5) Where any case is transferred to an assessing authority under clause (a) of subsection (4), such assessing authority may deal with the case either *de novo* or from the stage at which it was transferred.".

4. *Amendment of section 5.*—In section 5 of the principal Act,—

(a) in subsection (2), for the words "two thousand five hundred rupees", the words "ten thousand rupees" shall be substituted;

(b) in subsection (3), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the purposes of this subsection, "component part" means an article which forms an identifiable constituent of any finished product, which along with others goes to make up the finished product and which is identifiable visually and is separable by a mechanical process and not by a chemical process, provided the identity of such article is not lost by separation.";

(c) in subsection (4), for the words "at the rate of four per cent of his taxable turnover in respect of the goods other than those specified in the First or Second Schedule", the words "on his taxable turnover in respect of such goods" shall be substituted.

5. *Amendment of section 5A.*—In section 5A of the principal Act, in the proviso to subsection (2), for the words "two thousand fiver hundred rupees", the words "ten thousand rupees" shall be substituted.

6. *Amendment of section 13*—In subsection (2) of section 13 of the principal Act, for the words "two thousand five hundred rupees", the words "ten thousand rupees" shall be substituted.

7. *Amendment of section 14.*— In section 14 of the principal Act,—

(a) after subsection (2), the following subsection shall be inserted, namely:—

"(2A) Where it appears necessary to the prescribed authority so to do for the proper realisation of the tax payable under this Act, it may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of the registration certificate a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified.";

(b) in subsection (4), for the words "security for the proper payment of tax", the words, brackets, figure and letter "security, or if the dealer has already furnished any security in pursuance of an order under subsection (2A), additional security, for the proper payment of tax" shall be substituted.

8. *Amendment of section 17.*—In section 17 of the principal Act, for subsections (4), (5) and (6), the following subsections shall be substituted, namely:—

"(4) Notwithstanding anything to the contrary contained in subsection (3), the assessing authority shall accept the return for any two years out of the three consecutive years beginning with the year 1977-78 submitted by any dealer whose total turnover as assessed under this Act according to the latest completed assessment and the total turnover specified in the return submitted by the assessee for the year for which the assessment is to be made accepting the return, does not exceed one lakh rupees and assess the dealer on the basis of such return:

Provided that the provisions of this subsection shall not apply if the tax due as specified in the return is less than the tax assessed according to the latest completed assessment by more than—

(a) twenty-five per cent, if the tax so assessed is not more than two hundred rupees;

(b) twenty per cent, if the tax so assessed is more than two hundred rupees but less than five hundred rupees;

(c) ten per cent, if the tax so assessed is not less than five hundred rupees:

Provided further that the provisions of this subsection shall not apply in the case of a dealer who has been punished or on whom a penalty has been imposed for evasion of tax for the year for which the return has been submitted.

(5) It shall be competent for the Board of Revenue to fix the two years for which the returns shall be accepted for the purposes of subsection (4), in respect of any dealer or class or group of dealers.

(6) If in respect of any year out of the three years mentioned in sub-section (4), the dealer is assessed in accordance with the provisions of sub-section (3), then for the next two years the assessing authority shall accept the return submitted by him and assess him on the basis of such return unless the total turnover as assessed under this Act for the said year or the total turnover specified in the return submitted by the dealer for the year for which assessment is to be made is above one lakh rupees.

(7) The provisions contained in the provisos to subsection (4) shall, so far as may be, apply in respect of any assessment under subsection (6).

(8) The system of completing the assessment in accordance with the provisions of subsection (3) for one year and then completing the assessment accepting the return for the next two years shall, subject to the conditions and limitations specified in this section, be continued for subsequent years.

(9) For the removal of doubts, it is hereby clarified that nothing contained in subsections (4), (6) and (8) shall be deemed to exclude the operation of section 19 or section 27 in the case of a dealer assessed under any of the said subsections."

9. *Insertion of new section 19A.*—After section 19 of the principal Act, the following section shall be inserted, namely:—

"19A. *Assessment in cases of price variation.*—Notwithstanding anything contained in subsection (1) of section 19,—

(a) if a dealer receives in any year any amount due to price variations which would have been included in his turnover for any previous year if it had been received by him in that year, he shall, within thirty days from the end of the year in which such amount is received, submit a return in the prescribed form to the assessing authorlty and thereupon the assessing authority shall proceed to assess the tax payable on such amount;

(b) if the assessing authority is satisfied that any return submitted under clause (a) is correct and complete, it shall assess the dealer on the basis thereof;

(c) if the return submitted by a dealer under clause (a) appears to the assessing authority to be incorrect or incomplete, the assessing authority shall after making such inquiry as it may consider necessary and after taking into account all relevant materials gathered by it, assess the dealer to the best of its judgment:

Provided that before taking action under this clause the dealer shall be given a reasonable opportunity to prove the correctness and completeness of the return;

(d) if no return is submitted by the dealer under clause (a), the assessing authority may, within four years from the expiry of the period within which such return ought to have been submitted, proceed to assess the tax payable on the amount referred to in the said clause:

Provided that before making any assessment under this clause, the assessing authority shall give the dealer an opportunity of being heard and make such other inquiry as it considers necessary."

10. *Amendment of section 23.*—In section 23 of the principal Act, in subsection (3), after the words "revising authority" the words "or within the time specified therefore in this Act or in any rule made there under" shall be inserted.

11. *Amendment of section 25.*—In section 25 of the principal Act,—

(a) in sub-section (1), for the words "require any officer of the Government or any local authority, company, firm, society or association of persons from whom money is due or may become due to the dealer, or any officer of the Government

or any local authority, company, firm society or association of persons", the words and brackets "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 dealer or any court or any such money is due or may become due to the dealer or any court or any such officer or any other person (other than an individual)" shall be substituted;

(b) for subsection (3), the following sub-section shall be substituted, namely:—

"(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 dealer, 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.";

(c) in sub section (4), for the words "Any local authority, company, firm, society or association of persons", the words "Any court or person other than an officer of the Government" shall be substituted:

(d) for subsections (5) and (6) and the *Explanation* under subsection (6), the following sub section and *Explanation* shall be substituted, namely:—

"(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 dealer or that such court or person does not hold any money for or on account of the dealer, 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 to 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 it were an arrear of public revenue due on land.

Explanation.—For the purposes of this section, the amount due to a dealer or money held for or on account of a dealer 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.".

12. *Amendment of section* 28.—In section 28 of the principal Act, in the proviso to sub section (6), for the words "forty-five days", the words "sixty days" shall be substituted.

13. *Insertion of new section 33A.*—After section 33 of the principal Act, the following section shall be inserted, namely:—

"33A. *Warehousemen to submit returns*.—Every warehouseman shall, if so required by an officer not below the rank of an assessing authority, furnish such particulars as he may require in respect of the goods deposited in his warehouse by any dealer, for the purpose of verifying the correctness of the returns submitted and the accounts maintained by such dealer.".

14. *Amendment of section 34.*—In subsection (1) of section 34 of the principal Act.—

(a) after the word and figures "section 19,", the word, figures and letter "section 19A," shall be inserted;

(b) for the words, figures and brackets "section 30 or subsection (2) of section 47", the words and figures "or section 30" shall be substituted.

15. *Amendment of section 35.*—In section 35 of the principal Act,—

(a) in subsection (1), for the words "the Inspecting Assistant Commissioner or any officer or authority of rank below that of an Inspecting Assistant Commissioner", the words "any officer or authority subordinate to him other than an Appellate Assistant Commissioner" shall be substituted;

(b) after sub section (2), the following sub section shall be inserted, namely:—

"(2A) Notwithstanding anything contained in subsection (2), the Deputy Commissioner may pass an order under subsection (1) on any point which has not been decided in an appeal or revision referred to in clause (b) of subsection (2), before the expiry of a period of one year from the date of the order in such appeal or revision or before the expiry of the period of four years referred to in clause (c) of that sub section, whichever is later.".

16. *Amendment of section 37.*—In section 37 of the principal Act,—

(a) in subsection (1), for the words "the Deputy Commissioner, Inspecting Assistant Commissioner or any officer or authority of rank below that of an Inspecting Assistant Commissioner", the words "any officer or authority subordinate to it other than an Appellate Assistant Commissioner" shall be substituted;

(b) after subsection (2), the following subsection shall be inserted, namely:—

"(2A) Notwithstanding anything contained in subsection (2), the Board of Revenue may pass an order under subsection (1) on any point which has not been decided in an appeal or revision referred to in clause (b) of subsection (2), before the expiry of a period of one year from the date of the order in such appeal or revision or before the expiry of a period of four years referred in clause (c) of that subsection, whichever is later.".

17. *Omission of section 45*.—Section 45 of the principal Act shall be omitted.

18. *Amendment of section 45 A*.—In section 45 A of the principal Act, —.

(a) in subsection (1), for the words "an amount of fifty rupees or twice the amount of sales tax or other amount evaded or sought to be evaded whichever is higher", the words "an amount not exceeding twice the amount or sales tax or other amount evaded or sought to be evaded where it is practicable to quantify the evasion or an amount not exceeding five thousand rupees in any other case" shall be substituted;

(b) for subsection (3), the following subsection shall be substituted namely:—

"(3) The Deputy Commissioner may, on application by any person on whom a penalty is imposed under subsection (1) within thirty days from the date of receipt by him of the order imposing such penalty, for reason to be recorded in writing, confirm, reduce or waive such penalty or remand the case to the assessing authority or Appellate Assistant Commissioner, as the case may be, for reconsideration:

Provided that the Deputy Commissioner may admit an application made after the expiry of the said period of thirty days if he is satisfied that the applicant had sufficient cause for not making the application within the said period.";

(c) in subsection (5),—

(i) in the proviso, for the words "Provided that", the words "provided further that" shall be substituted;

(ii) before the proviso, the following proviso shall be inserted namely:—

"Provided that Board of Revenue shall not admit an application made after the expiry of thirty days from the date of receipt by the applicant of the order under subsection (1) or subsection (3), as the case may be, unless it is satisfied that the applicant had sufficient cause for not making the application within the said period.".

19. *Amendment of section 47*.—In section 47 of the principal Act, in clause (b), for the words "one thousand rupees", the words "five thousand rupees" shall be substituted.

20. *Amendment of section 54.*—In subsection (2) of section 54 of the principal Act, in clause (ix), for the words "Department of the Government", the words "Department of the Central Government or the Government of Kerala" shall be substituted.

21. *Insertion of new section 59 A.*—After section 59 of the principal Act, the following section shall be inserted, namely:—

"59 A. *Power of Government to determine rate of tax.*—If any question arises as to the rate of tax leviable under this Act on the sale or purchase of any goods, such question shall be referred to the Government for decision, and the decision of the Government thereon shall, notwithstanding any other provision in this Act, be final.".

22. *Amendment of First Schedule.*— In the First Schedule to the principal Act,—

(i) for Serial Number 1 and the entries relating thereto and the Explanation thereunder, the following shall be substituted, namely:—

"1.	Foreign Liquor	At the point of first sale in the State by a dealer who is liable to tax under section 5	50
2 .	Liquor other than foreign liquor arrack and toddy	do.	40

*Explanation*1.— "Liquor" means and includes toddy, wine, brandy, champagne, sherry, rum, gin, whisky, beer, cider, coco-brandy, arrack and all other distilled or spirituous or fermented beverages brought into or produced or manufactured in the State.

Explanation 2.— "Foreign liquor" means any liquor manufactured in any country other than India and brought to India.";

(ii) for Serial Number 5 and the entries relating thereto, the following shall be substituted, namely:—

"5.	Rubber products other than those specially mentioned in this Schedule, but not including cycle tyres, and tubes and rubber	At the point of first sale in the State by a dealer who is liable to tax under	10

	accessories of cycles.	section 5	
5A	Synthetic rubber and its products and mixture of rubber and synthetic rubber	do.	12”;

(iii) in column (4) against Serial Number 6, for the figures “12”, the figures “15” shall be substituted;

(iv) for Serial Numbers 7 and 8 and the entries relating thereto, the following shall be substituted, namely:—

“7	All varieties of tractors, power tillers and bull dozers and spare parts, component parts and tyres and tubes thereof.	At the point of first sale in the State by a dealer who is liable to tax under section 5.	10
8.	Motor vehicles, motor vessels, motor engines, chassis of motor vehicles, trailers, motor bodies built on the chassis of motor vehicles, bodies built for motor vessels or engines, motor tyres, tubes and other spare parts and accessories of motor vehicles or motor vessels; motor cycles and cycle combinations, motor scooters, motorettes and tyres, tubes and other spare parts and accessories of motor cycles, motor scooters and motorettes.	do.	15
8A	Rolling bearing, that is to say, ball or roller bearing (all kinds)	do.	8”;

(v) for the entry in column (2) against Serial Number 9, the following shall be substituted, namely:—

	“Refrigerators, water coolers and air conditioning plants and machines and component parts thereof”;		

(vi) in column (4) against Serial Number 18, for the figures “15”, the figures “20” shall be substituted;

(vii) in the entry in column (2) against Serial Number 21, for the words “parts thereof”, the words “parts and accessories thereof” shall be substituted;

(viii) in column (4) against Serial Number 25, for the figure “7”, the figure “8” shall be substituted;

(ix) in column (4) against Serial Number 25 A, for the figure “9”, the figure “10” shall be substituted;

(x) in the entry in column (2) against Serial Number 25B, for the words “Mosaic tiles”, the words “Glazed tiles, mosaic tiles” shall be substituted;

(xi) in the entries relating to Serial Number 25H, in column (4), for the figure “9”, the figures “10” shall be substituted;

(xii) after Serial Number 25H and the entries relating thereto, Number 25H, the following shall be inserted, namely:—

“25HH Fruits, vegetables, roots and tubers, preserved or prepared and canned, tinned or bottled	At the point of first sale in the State by a dealer who is liable to tax under section 5.	10”;

(xiii) in column (4) against Serial Number 25NN, for the figure “5” the figure “3” shall be substituted;

(xiv) in column (4) against Serial Number 25O, for the figure “5”, the figure “6” shall be substituted;

(xv) after Serial Number 25O and the entries relating thereto, the following shall be inserted, namely:—

“25OO Cotton sewing thread	At the point of first sale in the State by a dealer who is liable to tax under section 5	3”;

(xvi) for Serial Number 25P and the entries relating thereto, the following shall be substituted, namely:—

"25P. Non-alcoholic drinks and beverages bottled or canned and sold under brand name	At the point of first sale in the State by a dealer who is liable to tax under section 5.	10
25PP. Aerated waters, non-alcoholic drinks and beverages bottled or canned and not falling under item 25P.	do.	5";

(xvii) after Serial Number 25Q and the entries relating thereto, the following shall be inserted, namely:—

"25R.Titanium Dioxide	At the point of first sale in the State by a dealer who is liable to tax under section 5	10";

(xviii) in column (4) against Serial Number 26, for the figure "9", the figure "10" shall be substituted:

(xix) for Serial Number 26A, and the entries relating thereto, the following shall be substituted, namely:—

"26A. Water supply and sanitary equipments and fittings	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
26B P.V.C.pipes	do.	8";

(xx) after Serial Number 32 and the entries relating thereto, the following shall be inserted namely:—

32A. All kinds of suit cases, brief cases	At the point of first	

	and vanity bags, when sold at a price of Rs.50 or above	sale in the State by a dealer who is liable to tax under section 5	10”;

(xxi) for Serial Number 33, and the entries relating thereto, the following shall be substituted, namely:—

“33	Plywood, veneer plywood and hard boards	At the point of first sale in the State by a dealer who is liable to tax under section 5.	7
33A.	All kinds of laminated sheets and thermocol	do.	15”:

(xxii) in column (4) against Serial Number 49, for the figure “5”, the figure “6” shall be substituted;

(xxiii) for Serial Number 54 and 55 and the entries relating thereto, the following shall be substituted, namely:—

“54 (i) Ammonium Sulphate,
(ii) Ammonium Sulphate Nitrate,
(iii) Urea,
(iv) Ammonium Chloride,
(v) Sodium Nitrate,
(vi) Calcium Ammonium Nitrate,
(vii) Super Phosphate Single,
(viii) Super Phosphate Triple,
(ix) Kotka Phosphate,
(x) Dicalcium Phosphate,

(xi) Pottassium Chloride (Muriate of Potash),

(xii) Sulphate of Potash,

(xiii) Mono Ammonium Phosphate,

(xiv) Di Ammonium Phosphate,

(xv) Ammonium Phosphate Sulphate of any description,

(xvi) Nitro Phosphate of any description,

(xvii) N.P.K.Complex of various grades,

(xviii) Bone meal,

(xix) Urea Ammonium Phosphate,

(x) Fused Calsium Magnesium Phosphate,

(xxi) Rock Phosphate,

(xxii)Any mixture of two or more of the articles mentioned in sub-items (i) to (xxi) above with or without the addition of other articles (on the turnover relating to compo-nents thereof which have not already suffered tax), and(xxiii) Any other chemical fertilizers At the point of first sale in the State by a dealer who is liable to tax under section 52

55. Pesticides and plant protection chemicals do. 4";

(xxiv) for Serial Number 58 and the entries relating thereto, the following shall be substituted, namely:—

"58. (i) Garbled Pepper At the point of last purchase in the State by a dealer who is liable

(ii) Ungarbled Pepper, to tax under section 56";

(xxv) for Serial Numbers 65A and 66, and the entries relating thereto, the following shall be substituted, namely:—

"65A(i)	Prawns, lobsters, frogs, froglegs, cuttle fish and crab not falling under (ii) below or 25H (viii)	At the point of last purchase in the State by a dealer who is liable to tax under section 5	5
(ii)	Prawns, lobsters, frog, frog-legs, cuttle fish and crab canned or tinned or frozen or otherwise processed not falling under item 25H (viii)	do.	5
66.	Cashewnut with shell	do.	5
66A.	Cashewnut kernel	At the point of first sale in the State by a dealer who is liable to tax under section 5	5".

23. *Amendment of Third Schedule.*—In the Third Schedule to the principal Act,—

(i) serial Number 8 and the entry relating thereto shall be omitted;

(ii) before Serial Number 12 and the entry relating thereto, the following shall be inserted, namely:—

"11A. Arrack.".

24. Validation.—Not withstanding anything contained in the principal Act or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, any order purported to have been passed or any other action purported to have been taken, before the commencement of this Act, by a Deputy Commissioner in revision against the orders of any Assistant Commissioner of Salestax who has been invested with the powers of an assessing authority in the purported exercise of the powers conferred by section 35 of the principal Act shall be, and shall be deemed always to have been, valid and in accordance with law as if such order was passed or such other action was taken in

exercise of the powers conferred by section 35 of the principal Act as amended by this Act.

25. *Repeal and saving.*—(1) The Kerala General Sales Tax (Amendment) Ordinance, 1978 (10 of 1978), 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.

THE KERALA GENERAL SALES TAX
(AMENDMENT) ACT, 1980 [1]
(Act 19 of 1980)

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.—WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Thirty-first 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, 1980.

(2) Clause (a) of section 3 and sections 4, 5, 7, 9, 10 and 12 shall be deemed to have come into force on the 1st day of April, 1980 and the remaining provisions of his Act shall come into force at once.

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), in clause (vii), the words "of a business nature" shall be omitted.

3. *Amendment of section* 5.—In section 5 of the principal Act,—

(a) in sub-section (1), for the words "twenty-five thousand rupees", the words "thirty-five thousand rupees" shall be substituted;

(b) in sub-section (3), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the goods sold are capable of being used as component part of any of the goods mentioned in the First Schedule.".

4. *Amendment of section 5A.*—In section 5A of the principal Act,—

(a) in sub-section (2), for the words "twenty-five thousand rupees", the words "thirty-five thousand rupees" shall be substituted;

(b) in sub-section (3), for the words "twenty-five thousand rupees" and "thirty thousand rupees", the words "thirty-five thousand rupees" and "forty thousand rupees" shall respectively be substituted.

5. *Amendment of section 7.*—In section 7 of the principal Act, in sub section (1), for the words "twenty-five thousand rupees" and "thirty thousand rupees", the words

"thirty-five thousand rupees" and "forty thousand rupees" shall respectively be substituted.

6. *Amendment of section* 10.—In section 10 of the principal Act, in sub-section (1), after the words "make an exemption or reduction in rate,", the words "either prospectively or retrospectively," shall be inserted.

7. *Amendment of section* 13.—In section 13 of the principal Act, in sub-section (1), for the words "twenty-five thousand rupees", the words "thirty-five thousand rupees" shall be substituted.

8. *Amendment of section* 14.—In section 14 of the principal Act, for sub section (2), the following sub-section shall be substituted, namely:—

"(2) If the prescribed authority after making such enquiries as it may consider necessary is satisfied—

(a) that the application is in order;

(b) that the particulars furnished therein are correct; and

(c) that the security, if any, required to be furnished under sub section (2A) has been furnished,

it shall register the applicant and issue to him a certificate in the prescribed form.".

9. *Amendment of section* 17.—In section 17 of the principal Act,—

(a) in subsection (4),—

(i) for the word, brackets and figure "subsection (3)", the words, brackets, figures and letter "subsections (3) and (4A)" shall be substituted;

(ii) in the second proviso, after the words "penalty has been imposed", the words and figures "or from whom a sum of money has been accepted under section 47" shall be inserted;

(b) after sub-section(4), the following subsection shall be inserted namely:—

"(4A) Notwithstanding anything to the contrary contained in subsection (3), in the case of a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969), the assessing authority shall make the final assessment for the year 1980-81 and for every subsequent year on the basis of the return furnished by that society, if such return is duly supported by the audit report of such society issued by the Registrar of Co-operative Societies:

Provided that the provisions of this subsection shall not apply if the audit report of the co-operative society issued by the Registrar of Co-operative Societies is not furnished within a period of three years from the expiry of the year to which it relates:

Provided further that the provisions of this subsection shall not apply in the case of a co-operative society which has been punished or on which a penalty has been imposed or from which a sum of money has been accepted under section 47 for evasion of tax for the year for which the return has been furnished;";

(c) in subsection (9), after the brackets and figure "(4)," the brackets, figure and letter "(4A)," shall be inserted.

10. *Amendment of section* 18.—In section 18 of the principal Act,—

(a) to subsection (1A), the following provisos shall be added namely:—

"Provided that in the case of a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969), the assessing authority shall determine the amount of tax payable in respect of the year 1980-81 and each subsequent year on the basis of the return and the latest audit report of the society issued by the Registrar of Co-operative Societies and furnished by such society:

Provided further that the provisions of the foregoing proviso shall not apply in the case of a co-operative society which has been punished or on which a penalty has been imposed or from which a sum of money has been accepted under section 47 for evasion of tax for the year for which the return has been furnished.";

(b) after subsection (2), the following subsection shall be inserted, namely:—

"(2A) Notwithstanding anything to the contrary contained in sub-section (2), the assessing authority shall accept the return submitted by any dealer whose total turnover as assessed under subsection (2) according to the latest completed assessment does not exceed one lakh rupees and determine the amount of tax payable by the dealer on the basis of such return:

Provided that the provisions of this subsection shall not apply if the tax due as specified in the return is less than the tax assessed according to the latest completed assessment by more than—

(a) twenty-five per cent, if the tax so assessed is not more than two hundred rupees;

(b) twenty per cent, if the tax so assessed is more than two hundred rupees, but less than five hundred rupees;

(c) ten per cent, if the tax so assessed is not less than five hundred rupees:

Provided further that the provisions of this subsection shall not apply in the case of a dealer who has been punished or on whom a penalty has been imposed or from whom a sum of money has been accepted under section 47 for evasion of tax for the year for which the return has been submitted.".

11. *Amendment of section* 3.—In section 23 of the principal Act, after subsection (3), the following subsections shall be inserted, namely:—

"(4) Where, as a result of any order in appeal or revision or any rectification under section 43, any dealer or other person is not liable to pay the tax assessed or any other amount, the levy of penal interest for the non-payment of such tax or other amount shall be cancelled and if any amount of such penal interest has been collected, it shall be refunded to the dealer or other person, as the case may be.

(5) Where, as a result of any order in appeal or revision or any rectification under section 43, any tax assessed or any other amount due from any dealer or other person has been reduced, the penal interest levied for the nonpayment of such tax or other amount shall be proportionately reduced and if any amount of penal interest in excess of such reduced penal interest has been collected, such excess shall be refunded to the dealer or other person, as the case may be.

(6) The provisions of subsections (4) and (5) shall, so far as may be, apply, in respect of penal interest levied for the non-payment of tax provisionally assessed which has been reduced in part or in full as a result of final assessment.".

12. *Amendment of section* 34.—In subsection (1) of section 34 of the principal Act, for the words, brackets and figures "subsection (3) of section 17", in both the places where they occur, the words, brackets, figures and letter "subsection (3) or subsection (4A) of section 17" shall be substituted.

13. *Amendment of section 45A.*—In subsection (1) of section 45A of the principal Act, the *Explanation* shall be numbered as *Explanation I* and after that *Explanation,* the following *Explanation* shall be inserted, namely: —

"Explanation II.—For the purposes of this subsection, the expression "assessing authority" includes any officer not below the rank of Sales Tax Officer specified by the Government in this behalf by notification in the Gazette.".

14. *Substitution of new section for section 46A.*—For section 46A of the principal Act, the following section shall be substituted, namely:—

"46A. *Penalty for illegal collection of tax.*—(1) If any person collects any sum by way of tax or purporting to be by way of tax in contravention of subsection (2) or subsection (3) of section 22, he shall be liable to pay penalty not exceeding five thousand rupees and any sum collected by the person by way of tax or purporting to be by way of tax in contravention of subsection (2) or subsection (3) of section 22 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 such penalty or forfeiture shall not be ordered:

Provided that no penalty or forfeiture shall be ordered under this subsection 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 subsection (1), any person from whom the amount was collected in contravention of the provisions of subsection (2) or subsection (3) of section 22 may apply to the assessing authority for reimbursement of such sum and the amount shall be reimbursed to such person in the prescribed manner.

(3) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed or forfeiture has been ordered under this section.".

15. *Substitution of new Schedule for First Schedule.*—For the First Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE

[Goods in respect of which single point tax is leviable under subsection (1) or subsection (2) of section 5]

Sl. No.	*Description of goods*	*Point of levy*	*Rate of rax*
(1)	(2)	(3)	(4)
	Meat and meat preparations		
1	Meat kept in cold storage, chilled or frozen and dried or smoked	At the point of first sale in the State by a dealer who is liable to tax under section 5.	6
2	Meat and preparations of meat and meat offals sold in air-tight containers	do	10
	Dairy products		
3	Milk products, including milk powder, baby food, ghee, cheese and butter	At the point of first sale in the State by a dealer who is liable to tax under section 5	10
	Fish and fish preparations		
4	(i) Prawns, crustaceans, molluscs, frogs and frog legs, not falling under item	At the point of last purchase in the State by a dealer	5

	(ii) below	who is liable to tax under section 5	
	(ii) Prawns, crustaceans, molluscs, frogs and frog legs, canned or otherwise processed.	do	5
5	Fish and fish preparations, sold in air-tight containers	At the point of first sale in the State by a dealer who is liable to tax under section 5.	10
6	Foods, including preparations of birds, eggs, animal blood, prawns, crustanceans and molluscs, sold in air-tight containers	do	10
	Cereals and cereal preparations		
7	Rice products and wheat products *Explanation*.—"Rice products" means parched, puffed or beaten rice and "wheat products" means maida, atta, suji, rava, resultant atta and bran	do	4
8	Biscuits sold under brand names (Patented)	do	10
9	Biscuits not specified in item 8 and bakery products excluding bread	do	5
10	Pulses other than those coming under declared goods	do	4
	Fruits and vegetables		

11	Cashewnut with shell	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	5
12	Cashew kernel	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5
13	Coconuts (other than those coming under declared goods)	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	5
14	Tamarind	At the point of first sale in the State by a dealer who is liable to tax under section 5.	6
15	Fruits, vegetables, roots, tubers, cereals, flour and starch preserved or prepared and sold in air-tight containers	do	10
16	Tapioca	At the point of last purchase in the State by a dealer who is liable to tax under section 5:	2

Provided that a dealer shall not be liable to pay tax under this Act in respect of tapioca, if his turnover of the purchase of tapioca within the State is less than thirty-five thousand rupees and such tapioca is sold for domestic consumption and for use as food materials:

Provided further that an authorised retail distributor appointed under the Kerala Rationing Order, 1966, shall not liable to pay tax under this Act in respect of tapioca sold to ration card holders, whatever be his turnover.

17	Sugarcane	At the point of last	5

		purchase in the state by a dealer who is liable to tax under section 5.	
18	Chicory	At the point of first sale in the State by a dealer who is liable to tax under section 5.	6
	Sugar preparations		
19	Jaggery other than palmgur	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
20	Confectionery, including toffees and chocolates	do	10
	Coffee, tea, spices and manufacturers thereof		
21	Coffee, that is to say, any one the forms of coffee such as coffee beans, coffee seeds (raw or roasted), coffee powder, but not including coffee drink.	At the point of first sale in the State by a dealer who is liable to tax under section 5	6
22	Green tea leaves and manufactured tea *Explanation*.—Where a tax has been levied in respect of manufactured tea, the tax, if any, levied and collected in respect of green tea leaves from which such manufactured tea is produced shall be refunded	do	5
23	(i) Garbled pepper	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	6
	(ii) Ungarbled pepper		
24	Cardamom	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5

25	Green and dried ginger	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	4
26	Turmeric	At the point of first sale in the State by a dealer who is liable to tax under section 5	6
27	Spices (including chillies and corriander seed) falling under any other items in this Schedule	At the point of first sale in the state by a dealer who is liable to tax under section 5	8
28	Kacholam	At the point of last purchase in the State by a dealer who is liable to tax under Section 5	6
	Feeding stuff for animals		
29	Coconut oil cake	At the point of first sale in the State by a dealer who is liable to tax under section 5	5
30	Cattle feed (including gingili oil cake and groundnut oil cake and rice bran) and poultry feeds	do	5
31	Neem cake	do	5
	Beverages		
32	Ice	do	5
33	Non-alcoholic drinks, squashes, sauces and beverages, bottled or canned and sold under brand name.	do	10
Explanation.—Powders and Tablets used for preparations of non-alcoholic drinks shall, whether or not they are bottled or canned, be liable to tax under this item or item 34.			
34	Aerated waters, non-alcoholic drinks and squashes, sauces and beverages, bottled or canned, not falling under item 33.	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5

35	Foreign liquor	do	50
36	Liquor other than foreign liquor, arrack and toddy	do	40

Explanation (1)—"Liquor" means and includes toddy, wine, brandy, champagne, sherry, rum, gin, whisky, beer, cider, cocoa-brandy, arrack, and all other distilled or spirituous or fermented beverages brought into or produced or manufactured in the State.

Explanation (2).—"Foreign liquor" means any liquor manufactured in any country other than India and brought to India.

37	Vinegar	do	8
	Rubber		
38	Rubber excluding synthetic rubber	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	5
39	Rubber products other than those specifically mentioned in this Schedule	At the point of first sale in the State by a dealer who is liable to tax under section 5.	10
40	Synthetic rubber and its products and mixture of rubber and synthetic rubber and its products	At the point of first sale in the State by a dealer who is liable to tax under section 5	12
	Textile fibres		
41	Sewing thread, twisted yarn and such other yarn or thread, not coming under declared goods and not mentioned elsewhere in this Schedule	do	3
42	Artificial silk yarn and staple fibre yarn	do	2
43	Synthetic polyster fibre	do	2
44	Aloe yarn and its products	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	2
	Iron and steel articles not falling under any other items in the		

	Schedule		
45	Iron and steel articles, not mentioned elsewhere in this Schedule or the Second Schedule	At the point of first sale in the State by a dealer who is liable to tax under section 5.	6
46	G.I. Pipes and Cast Iron Pipes	do	4
	Crude animal and vegetable materials not falling under any other items in this Schedule		
47	Arecanut	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	6
48	Nuxvomica	At the point of last purchase in the State by a dealer who is liable to tax under section 5	6
49	Beedi leaves	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5
	Petroleum and Petroleum products		
50	Motor spirit other than petrol and aviation gasoline	At the point of sale in the State by any oil company liable to tax under section 5, except where the sale is by any oil company to another oil company	20
51	Petrol other than Naphtha	do	15
52	Aviation gasoline	do	12
53	Aviation turbine fuel	do	8
54	Naphta	do	5
55	Kerosene	do	4
56	Furnace oil	do	5

Explanation.—For the purposes of Sl. Nos.50 to 56 above, "oil company" means Cochin Refineries Ltd., Indian Oil Corporation Ltd., Bharat

Petroleum Corporation Ltd., Caltex Oil Refining (India) Ltd., Hindustan Petroleum Corporation Ltd., Indo-Burmah Petroleum Company Ltd., and includes such other Company as the Government may from time to time, by notification in the Gazette, specify in this behalf.			
57	Lubricating oil, greases, break fluid, transformer oil and other quenching oils	At the point of first sale in the State by a dealer who is liable to tax under section 5	7
	Gas, natural and manufactured		
58	Liquified petroleum gas	At the point of first sale in the State by a dealer who is liable to tax under section 5.	15
59	Industrial gas such as oxygen, acetylene, netrogen and carbondioxide	do	7
	Fixed vegetable oil and fats		
60	Coconut oil	do	5
61	All edible oils including refined or hydrogenated oil and margarene, except coconut oil	do	8
	Chemical elements and compounds		
62	Menthol	do	8
63	Glycerene	do	6
64	Camphor	do	6
65	All acids	do	6
66	Titanium dioxide	do	10
67	Caustic soda and caustic potash	do	8
68	Soda ash	do	8
69	Sodium sulphate	do	8
70	Sodium silicate	do	8
71	Chemicals not elsewhere specified in this Schedule	At the point of first sale in the State by a dealer who is liable to tax under section 5	8
	Dyeing, tanning and colouring materials		
72	Paints, colours, lacquers,	do	7

	varnishes, pigments, polishes indigo, enamel, putty, bale oil, white oil, turpentine oil thinners, emers and paint brushes		
73	Dye stuff	do	7
	Medicinal and Pharmaceutical products		
74	Allopathic medicines	do	6
75	Other medicines and drugs including Ayurvedic, Homeopathic, Sidha and Unani preparations.	do	6
76	Surgical cotton, absorbant cotton and wool I.P. bandage	do	6
	Essential oils and perfume materials		
77	Lemongrass oil	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	6
78	Laurel oil	do	5
79	Tooth powder and tooth paste	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
80	Talcum powder, other perfumeries and cosmetics, not falling under any other item in this Schedule	At the point of first sale in the State by a dealer who is liable to tax under section 5	10
81	Soap	do	5
82	Detergent powders, flakes and liquid and laundry brightness	do	8
83	Denatured spirit	do	8
	Fertilisers—manufactured		
84	(i) Ammonium Sulphate	At the point of fist sale in the State by a dealer who is liable to tax under section 5	2
	(ii) ammonium Sulphate Nitrate		

(iii) Urea		
(iv) Ammonium Chloride		
(v) Sodium Nitrate		
(vi) Calcium Ammonium Nitrate		
(vii) Super Phosphate Single		
(viii) Super Phosphate Tripple		
(ix) Kotka Phosphate		
(x) Diceleium Phosphate		
(xi) Potassium Chloride (Muriate of Potash)		
(xii) Sulphate of Potash		
(xiii) Mono Ammonium Phosphate		
(xiv) Di Ammonium Phosphate		
(xv)Ammonium Phosphate Sulphate of any description		
(xvi) Nitro Phosphate of any description	At the point of first sale in the State by a dealer who is liable to tax under section 5	2
(xvii) N.P.K. Complex of various grades		
(xviii) Bone meal		
(xix) Urea Ammonium Phosphate		
(xx) Fused Calcium Megnesium Phosphate		

	(xxi) Rock Phosphate		
	(xxii) Chillion Nitrate		
	(xxiii) Dolomite		
	(xxiv) Ultraphos		
	(xxv) Mazoon Phosphate		
	(xxvi) Calcium Carbonate		
	(xxvii) Any mixture of one or more of the articles mentioned in items (i) to xxvi) above, with or without the addition of other articles (on the turnover relating to components thereof, which have not already suffered tax).		
	Explosives and pyrotechnic products		
85	Fireworks including coloured matches	At the point of first sale in the State by a dealer who is liable to tax under section 5.	12
	Plastic materials, etc.		
86	Cellophane	do	6
	Chemical materials and products not falling under any other item in the Schedule		
87	Pesticides and plant protection chemicals	At the point of first sale in the State by a dealer who is liable to tax under section 5	4
	Leather, leather manufacture		
88	All kinds of suit cases, brief cases and vanity bags when sold at a price of Rs.50 and above	do	10

89	Leather goods of all kinds, not specified in item No.88 above (other than hand-made foot-ware when sold at a price not exceeding Rs.5)	do	7
	Rubber manufacture not falling under any other item in this Schedule		
90	Tyres and tubes for motor vehicles, including trucks and buses	do	15
91	Tyres and tubes for motor cycles, motor-scooters, mopeds and motoretters	do	15
92	Tyres and tubes for cycles and tandom cycles	do	6
93	Foamed rubber sheets, cushions, pillows and other articles of foamed rubber	do	15
	Wood and cork manufactures		
94	Splints and veneers	At the point of first sale in the State by a dealer who is liable to tax under section 5	4
95	Plywood, veneer plywood and hard boards	do	7
96	Tea chests *Explanations.*—The planks and panels, which form the chest when assembled; will come under tea chest for the purpose of this entry	do	6
	Paper, paper board and manufacture thereof		
97	Paper (other than newsprint), card boards and their products	do	8

	Textile yarn, Fabrics and related articles		
98	Coconut fibre, coir yarn, coir products and bonded fibre fabrics of coir	At the point of last purchase in the State by a dealer who is liable to tax under section 5	2
99	Rubberised coir products	At the point of first sale in the State by a dealer who is liable to tax under section 5	6
100	Bonded fibre fabrics other than those made of coir	do	10
101	Silk fabrics, that is to say, all varieties of fabrics manufactured either wholly or partly from silk including embroidery in piece, in strips or in motifs, but not including such fabrics on which duty of excise is leviable under sub-section (i) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (Central Act 58 of 1957)	At the point of first sale in the State by a dealer who is liable to tax under section 5.	7
	Non-metalic mineral manufactures not falling under any other item in this Schedule		
102	Cement	do	8
103	Asbestos sheets and products	do	10
104	Bricks and tiles (kilin burnt)	do	5
105	Glazed tiles, mosaic tiles, marble tiles, marble slabs and chips	do	15
106	Spectacles, glasses, goggles, rough blanks, lenses, framed attachment parts and accessories thereof	do	7
107	Mirrors	do	10
108	Chinaware and porcelain ware	do	10
109	Clay products	do	4
110	Bangles, excluding those made of	do	5

	gold, silver and other metals		
111	Glassware	do	10
112	Precious stones, namely, diamonds, emeralds, rubies, real pearls and saphires, synthetic or artificial precious stones/pearls, artificial or cultured	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5
113	Water supply and sanitary equipments and fittings	do	8
114	Water meters and parts and accessories thereof.	do	8
	Non-ferous metals		
115	Aluminium, aluminium alloys and all articles made of aluminium or/and aluminium alloys	do	8
116	Tin including tin sheets and tin plates	do	8
	Manufacture of metals not falling under any other item in this Schedule		
117	Stainless steel products	do	7
118	Pressure cooker	do	9
119	Welding rods and arc carbon	do	9
120	Trunks, iron or steel	do	8
121	All metallic products other than those specified elsewhere in this Schedule or the Second Schedule.	do	8
	Machinery other than electric		
122	Internal combustion engine	do	8
123	Rolling bearing, that is to say, ball or roller bearing (all kinds)	do	8
124	Agricultural machinery and implements, not falling under any other item in this Schedule, other than hand made	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
125	All varieties for tractors power tillers and bull dozers and spare parts, component parts and tyres and tubes thereof	do	10
126	Typewriters, tabulating machines, calculating machines and duplicating machines and parts and accessories thereof	do	15
127	Sewing machine and spare parts	do	6

	and accessories thereof		
128	Refrigerators, water coolers and air conditioning plants and machines and component parts thereof	do	15
129	Centrifugal pumps electrically operated or engine operated	do	9
	Electrical machinery apparatus and appliances		
130	All electrical goods (other than those specifically mentioned in this Schedule) instruments, apparatus, appliances and all such articles, the use of which cannot be had except with the application of electrical energy, including fan and lighting bulbs, electrical earthernwares and porcelain and all other accessories and component parts, either sold as a whole or in parts	do	10
131	Television sets and parts and accessories thereof	At the point of first sale in the State by a dealer who is liable to tax under section 5.	15
132	Telecommunication apparatus, not falling under any other item in this Schedule	do	15
133	Wireless reception instruments and apparatus, radio and transistors, not falling under item 134, radio gramaphones, electrical valves, accumulators, amplifiers and loud speakers and spare parts and accessories thereof	do	15
134	Radios and transistors costing not more than Rs.150 and spare parts and accessories thereof	do	12
135	Dictaphone and similar apparatus for recording sound and spare parts thereof	do	15
136	Batteries other than dry cells	do	13

137	Dry cells	do	1
	Transport equipments		
138	Motor vehicles, motor vessels, motor engines, chassis of motor vehicles, trailors, motor bodies built on the chassis of motor vehicles, bodies built for motor vessels or engines and spare parts and accessories thereof	do	15
139	Motor cycles and motor cycle combinations, motor scooters, mopeds and motorettes and spare parts and accessories thereof	At the point of first sale in the State by a dealer who is liable to tax under section 5	15
140	Boat (canoes, wooden launches)	do	6
141	Machinery and transport equipments (other than those specifically mentioned in the Schedule)	do	8
142	Bicycles, tandam cycles and cycle combinations and accessories and parts thereof	do	6
	Furniture		
143	Upholstered furniture, sofa sets, dressing tables and furniture of all types made of timber, rattan or bamboo	do	7
144	Upholstered furniture supported on steel frames	do	12
145	Safes, almirah and furniture made of iron or steel	do	12
	Clothing		
146	Readymade garments	do	6
147	Hosiery goods	do	3
148	Watch strap made of leather or any other material	do	10
149	Footwear of all kinds (except leather footwear)	do	7
	Professional, scientific and controlling instruments,		

	photographic and optical goods		
150	Binoculars, telescopes and opera glasses	do	15
151	Photographic and other cameras and enlargers, lenses, films and plates, paper and cloth and other parts and accessories required for use therewith	At the point of first sale in the State by a dealer who is liable to tax under section 5.	15
152	Cinematographic equipments, including cameras, projectors and sound recording and reproducing equipments, lenses, films and parts and accessories required for use therewith	do	15
153	Sound transmitting equipments including telephones and loud speakers and spare parts thereof	do	15
	Miscellaneous Manufactured articles		
154	Clocks, timepieces and watches and parts thereof	do	12
155	Gramaphones and component parts thereof and records	do	15
156	Plastics and articles made of plastics	do	8
157	All arms including rifles, revolvers, pistols and ammunitions for the same	do	20
158	Sports goods	do	5
159	Pens, pencils and fountain pens	do	5
160	Ink, other than printing ink	do	5
161	Bullion and species	do	2
162	Jewellery of gold, silver and platinum group metals *Explanation.*—Where a tax has been levied in respect of bullion and specie, the tax leviable on jewellery of gold, silver and	At the point of first sale in the State by a dealer who is liable to tax under section 5.	2

		platinum group metals produced out of such bullion and specie shall be reduced by the amount of tax levied on such bullion and specie	
163	Matches	do	15
164	Cigarette cases and lighters	do	15
165	Umbrella	do	5
166	Rain coat	do	8
167	Vacuum flask and other vacuum vessels and parts thereof	do	10
168	PV.C. pipes, alkathene pipes, ploythene pipes, pipes made of synthetic materials	do	8
169	All kinds of laminated sheets and expanded polytsyrene	do	8
170	Candle	do	4.”.

THE KERALA GENERAL SALEX TAX (AMENDMENT) ACT, 1981 [1]

(Act 23 of 1981)

An Act further to amend the Kerala General Sales Tax Act, 1963

Preamble .-WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purpose hereinafter appearing;

BE it enacted in the Thirty-second 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, 1981.

(2) It shall be deemed to have come into force on the 1 st day of April, 1981.

2. *Amendment of section* 5.-In section 5 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),-

(a) in subsection (1), for the words “thirty-five thousand rupees”, the words ‘fifty thousand rupees shall be substituted;

(b) in subsection (2), for the words “ten thousand rupees”, the words ‘fifteen thousand rupees” shall be substituted.

3. *Amendment of section 5A* .-In section 5A of the principal Act,-

(a) in subsection (2), for the words “thirty-five thousand rupees” and “ten thousand rupees”, the words “fifty thousand rupees” and fifteen thousand rupees” shall respectively be substituted;

(b) in subsection (3), for the words “thirty-five thousand rupees” and “forty thousand rupees”, the words “fifty thousand rupees” and “fifty-five thousand rupees” shall respectively be substituted.

4. *Amendment of section* 7.-In section 7 of the principal Act, in subsection (1), for the words “thirty-five thousand rupees” and “forty thousand rupees”, the words “fifty thousand rupees” and ‘fifty-five thousand rupees” shall respectively be substituted.

5. *Amendment of section* 13.-In section 13 of the principal Act,-

(a) in sub-section (1), for the words “thirty-five thousand rupees”, the words “fifty thousand rupees' shall be substituted;

(b) in subsection (2), for the words “ten thousand rupees”, the words “fifteen thousand rupees” shall be

substituted.

6. *Amendment of section* 17.-In section 17 of the principal Act, in subsections (4) and (6), for the words “one lakh rupees”, the words “one lakh and fifty thousand rupees” shall be substituted.

7. *Amendment of section* 18.-In section 18 of the principal Act, in subsection (2A), for the words “one lakh rupees”, the words “one lakh and fifty thousand rupees” shall be substituted.

8. *Amendment of First Schedule* .- In the First Schedule to the principal Act,-

(a) in the entry in column (4) against serial number 36, for the figures “40”, the figure “50” shall be substituted;

(b) in the entry in column (2) against serial number 101, after the words “manufactured”, the words “in mill or on handloom” shall be inserted.

9. *Amendment of Third Schedule* .- In the Third Schedule to the principal Act, in the entry against serial number 3, the following shall be inserted at the end, namely:-

“except silk fabrics woven on handlooms wholly or partly with mill yarn.”.

THE KERALA GENERAL SALES TAX (AMENDMENT)

ACT, 1983 [1]

(ACT 3 OF 1983)

An Act further to amend the Kerala General Sales tax Act, 1963.

Preamble. — whereas it is expedient further to amend the Kerala General Sales tax Act, 1963, for the purposes hereinafter appearing;

be it enacted in the Thirty-fourth 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, 1983.

(2) Clauses (a) and (b) of section 2 and sections 3, 4, 5, 6, 7 and 8 shall be deemed to have come into force on the 1st day of April, 1982, and the remaining provisions of this Act shall be deemed to have come into force on the 14th day of October, 1982.

2. *Amendment of section* 5.—In section 5 of the Kerala General Sales tax Act, 1963 (15 of 1963 (hereinafter referred to as the principal Act),—

(a) .in subsection (1), for the words "fifty thousand rupees", the words "seventy-five thousand rupees" shall be substituted;

(b) in sub-section (2), for the words "fifteen thousand rupees", the words "twenty-five thousand rupees" shall be substituted;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Notwithstanding anything contained in sub-section (1) or subsection (2), the tax payable by a dealer in respect of any sale of the goods specified in the First Schedule, which is liable to tax at a rate higher than four per cent, by such dealer to another for use by the latter as component part, not being a component part as defined in the *Explanation* to sub-section (3), of any other goods mentioned in the said Schedule, which he intends to manufacture inside the State for sale shall be at the rate of only four per cent on the taxable turnover relating to such sale:

Provided that the provisions of this sub-section shall not apply to any sale unless the dealer selling the goods furnishes to the assessing authority in the prescribed manner a declaration duly filled in and signed by the dealer to whom the goods are sold containing the prescribed particulars in the prescribed form:

Provided further that the goods sold are capable of being used as component part, not being a component part as defined in the said *Explanation*, of any of the goods specified in the First Schedule.".

(d) after sub-section (6), the following sub-section shall be inserted, namely : —

"(7) Notwithstanding anything contained in sub-section (1) or sub section (2), the tax payable by a dealer in respect of any sale of industrial raw materials or packing materials, which is liable to tax at a rate higher than four per cent, when sold to industrial units for use in the production of finished products inside the State for sale, or for packing of such finished products inside the State for sale, as the case may be, shall be at the rate of only four per cent on the taxable turnover relating to such industrial raw materials or packing materials, as the case may be :

Provided that this sub-section shall not apply where the sale of such finished products is not liable to tax either under this Act or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) or when such finished products are exported out of the territory of India :

Provided further that the provisions of this sub-section shall not apply to any sale unless the dealer selling the goods furnishes to the assessing authority in the prescribed manner a declaration duly filled in and signed by the dealer to whom the goods are sold, containing the prescribed particulars in the prescribed form.".

3. *Amendment of section 5A.* —In section 5A of the principal Act,—

(a) in sub-section (2), for the words "fifty thousand rupees" and "fifteen thousand rupees", the words "seventy-five thousand rupees" and "twenty-five thousand rupees" shall respectively be substituted;

(b) in sub-section (3), for the words "fifty thousand rupees" and "fifty-five thousand rupees", the words "seventy-five thousand rupees" and "eighty thousand rupees" shall respectively be substituted.

4. *Amendment of section 7.* —In section 7 of the principal Act, for the words "fifty thousand rupees" and "fifty-five thousand rupees", the words "seventy-five thousand rupees" and "eighty thousand rupees" shall respectively be substituted.

5. *Amendment of section* 13.—In section 13 of the principal Act,—

(a) in sub-section (1), for the words "fifty thousand rupees", the words "seventy-five thousand rupees", shall be substituted ;

(b) in sub-section (2), for the words "fifteen thousand rupees", the words "twenty-five thousand rupees" shall be substituted.

6. *Amendment of section* 17.—In section 17 of the. principal Act, in sub- sections (4) and (6), for the words "one lakh and fifty thousand rupees", the words "two lakhs rupees" shall be substituted;

7. *Omission of section 18.* —Section 18 of the principal Act shall be omitted.

8. *Amendment of section* 34.—In section 34 of the principal Act, the words, brackets and figures "sub-section (1), sub-section (2) or sub-section (3) of section 18", in both the places where they occur, shall be omitted

9. *Amendment of First Schedule.* —In the First Schedule to the principal Act,—

(a) in column (4) against serial number 3, for the figures "10", the figure "8" shall be substituted;

(b) in column (4) against serial number 8, for the figures "10", the figure "8" shall be substituted ;

(c) serial number 16 and the entries relating thereto shall be omitted;

(d) in column (4) against serial number 20, for the figures "10", the figure "8" shall be substituted;

(e) before serial number37 and the entries relating thereto, the following shall be inserted, namely :—

"36A	Arrack	At the point of first sale in the Slate by a dealer who is liable to tax under section 5	15";

(f) in column (4) against serial number 39, for the figures "10", the figure "8" shall be substituted;

(g) for serial number 40, and the entries relating thereto, the following shall be substituted, namely :—

"40	Synthetic rubber and its products and mixture of rubber and. synthetic rubber and its products, excluding synthetic rubber foam, polyurethene foam and plastic foam and foam and their products	At the point of first sale in the State by a dealer who is liable to tax under section 5	12
40A	Synthetic rubber foam, polyurethene foam	do.	15”:

and plastic foam and their products

(h) for serial numbers 42 and 43 and the entries relating thereto, the following shall be substituted, namely :—

"42	Artificial silk yarn and syn thetic polyester fibre	At the point of first sale in the State by a dealer who is liable to tax under section 5	4
43	Staple fibre yarn	do.	2";

(i) in column (4) against serial number 61, for the figure "8", the figure "6" shall be substituted;

(j) for serial number 72 and the entries relating thereto, the following shall be substituted, namely:—

"72	Paints, colours and lacquers	At the point of first sale in the State by a dealer who is liable to tax under section 5	10
72A	Varnishes, pigments, polishes, indigo, enamel, putty, bale oil, white oil, turpentine oil, thinners, emers and paint brushes	do	7";

.

(k) in column (4) against serial number 73, for the figure "7", the figures "10" shall be substituted ;

(l) in the entries in column (2) against serial number 84, for item (x), the following item shall be substituted, namely :—

"(x) Dicalcium Phosphate";

(m) in column (4) against serial number 95, for the figure "7", the figures "10" shall be substituted ;

(n) in column (4) against serial number 99, for the figure "6", the figure "4" shall be substituted ;

(o) in column (4), against serial number 11, 2 for the figure "5", the figures "10" shall be substituted ;

(p) in column (4) against serial number 115 for the figure "8", the figure "6" shall be substituted ;

(q) in column (4) against serial number 117, for the figure "7", the figures "10" shall be substituted ;

(r) in column (4) against serial number 119, for the figure "9", the figure "8" shall be substituted ;

(s) in column (4) against serial number 124, for the figure "8", the figure "6" shall be substituted ;

(t) before serial number 130 and the entries relating thereto, the following shall be inserted, namely:—

"129A.	Grinders, mixers, hot plates, water heaters, washing machines and cooking ranges used as domestic electric appliances	At the point of first sale in the State by a dealer who is liable to tax under section 5	12";

(u) in column (4) against serial number 136, for the figures "13", the figures "15" shall be substituted ;

(v) in column (4) against serial number 146, for the figure "6," the figure "5" shall be substituted ;

(w) in column (4) against serial number 154, for the figures "12" the figures "15" shall be substituted ;

(x) for serial number 156 and the entries relating thereto, the following shall be substituted, namely :—

"156	Plastics and articles made of plastics including plastic pipes	At the point of first sale in the State by a dealer who is liable to tax under section 5	6";

(y) for the entry in column (2) against serial number 168, the following shall be substituted, namely:—

"Pipes made of synthetic materials other than plastics".

10. *Amendment of Third Schedule*.—*In* the Third Schedule to the principal Act,—

(a) serial number 11A and the entry relating thereto shall be omitted,

(b) the following shall be inserted at the end, namely:—

"17. Slates and slate pencils.

18. Tapioca and its products "

11. *Repeal and saving* —(1) The Kerala General Sales Tax (Amendment) Ordinance, 1982 (5 of 1982), 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.

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1988 [1]

(Act, 6 of 1968)

An Act further to amend the Kerala General Sales Tax Act, 1963

Preamble.—WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Thirty-ninth Year of the Republic of India as follows:—

1. S*hort title and commencement.*—(1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1988.

(2) Sub-clause (ii) of clause *(b)* of section 3 shall be deemed to have come into force on the 1st day of July, 1987 and the remaining provisions of the Act shall be deemed to have come into force on the 19th day of February, 1988.

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), in the *Explanation* to clause (xxvi), after the words "Notwithstanding anything contained in any other provision of this Act", the words "but subject to the provisions of section 8" shall be inserted.

3. *Amendment of section 5.*—In section 5 of the principal Act,—

(a) for the proviso to clause *(v)* of sub-section (1) of section 5, the following proviso shall be substituted, namely:—

"Provided that where there are no two points of sale in the State for any goods coming under the Fifth Schedule and the first sale is to a person other than a registered dealer, the rate specified in column (8) of that Schedule shall apply to such sales."

(b) In sub-section (2A),—

(i) for clause *(i)* of the proviso, the following clause shall be substituted, namely:—

"(i) on which tax is leviable on such dealer under sub-section (1) or sub-section (2), except in the case of rubber excluding synthetic rubber, tea, pepper, arecanut and dried ginger,—".

(ii) after clause (ii), the following clause shall be inserted, namely:—

(iii) Notwithstanding anything contained in sub-section (1) of section 22, no dealer shall collect from his purchaser the turnover tax payable by him under this sub-section."

4. *Amendment of section 13.*—In sub-section (2) of section 13 of the principal Act, for the words "the First and the Second Schedules", the words "the First, Second, Fourth and Fifth Schedules" shall be substituted.

5. *Amendment of section 23.*—For the opening paragraph in subsection (3) of section 23 of the principal Act, the following shall be substituted, namely:—

"(3) If the tax or any other amount assessed or due under this Act is not paid by any dealer or other person within the time prescribed therefor in this Act or in any rule made thereunder and in other cases within, the time specified therefor in the notice of demand, or within the time allowed for its payment by the appellate or revisional authority, as the case may be, or if payment is permitted in instalments by any of the authorities empowered in this behalf, any such installment is not paid within the time specified therefor, the dealer or other person shall pay, by way of penal interest, in the manner prescribed, in addition to the amount due, a sum equal to—".

6. *Amendment of section 47.*—In sub-section (1) of section 47 of the principal Act,—

(i) for clause *(a)*, the following clause shall be substituted, namely:—

"*(a)* Where the offence consists of the evasion of any tax payable under this Act, in addition to the tax so payable, a sum of money equal to the amount of tax so payable subject to a minimum of rupees one hundred and maximum of rupees one lakh; and"

(ii) after clause *(b)*, the following proviso shall be added namely :—

"Provided that the Board of Revenue may by order authorize an Officer to compound the offence under this section on payment of a reduced amount".

7. *Substitution of Fifth Schedule.--For* the "FIFTH SCHEDULE' to the principal Act, the following Schedule shall be substituted namely:—

THE FIFTH SCHEDULE

Goods in respect of which tax is leviable on two points under sub-section (1) or sub-section (2) of section 5

Sl.No.	Description of goods	First point of	Rate of tax (Per	Second point	Rate of tax (Per	Where there are no two points of	Rate o tax

		levy	cent)	of levy	cent)	sale in the State	(Per cent)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Foamed rubber sheets, cushions and pillows and other articles of foamed rubber	At the point of first sale in the State by a dealer who is liable to tax under section 5 to a registered dealer	15	At the point of last sale in the State by a dealer who is liable to tax under section 5	2	At the point of first sale in the State by a dealer who is liable to tax under section 5 to a person other than a registered dealer	17
2	Foreign Liquor Explanation:—Foreign Liquor means any liquor manufactured in any country other than India and brought to India	do	60	do	15	do	75
3	Laminated sheets and expanded Polystyrene of all kinds	do	15	do	2	do	17
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
4	Liquor other than foreign liquor, arrack and toddy	At the point of first sale in the State by a dealer who is liable to tax under section 5 to a registered dealer.	45	At the point of last sale in the State by a dealer who is liable to tax under section 5	15	At the point of first sale in the State by a dealer who is liable to tax under section 5 to a person other than a registered dealer	60
	Explanation:— "Liquor" means and includes toddy, wine, brandy, champagne, sherry, rum, gin, whisky, beer, cider, cocoa brandy, arrack and all other distilled or spirituous or fermented beverages brought into or produced or manufactured in the State						

5	Lubricating oil, grease, brake fluid, transformer oil and other quenching oils	do	10	do	1	do	11
6	Plywood, veneer plywood and hard-boards and veneers not covered by entry 180 of the First Schedule	do	10	do	2	do	12
7	Rubber products other than those specifically covered by the First Schedule	do	8	do	2	do	10
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
8	All kinds of suit cases, brief cases	do	10	do	1	do	11
9	Synthetic rubber products excluding those coming under entry 10 of this Schedule	do	10	do	2	do	12
10	Synthetic rubber foam Polyurethene foams and plastic foams and their products except tread rubber	do	15	do	2	do	17

8. *Repeal* (1) The Kerala General Sales Tax (Amendment) Ordinance, 1988 (10 of 1988), 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.

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1989 [1]

(ACT 11 OF 1989)

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble .— WHEREAS it is expedient to provide for the issue of transit passes for the transit of goods through the State, to check the evasion of sales tax;

BE it enacted in the Fortieth 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, 1989.

(2) It shall be Deemed to have come into force on the 25 th day of November, 1988.

2. *Insertion of new section 30B* . — After section 30 A of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), the following section shall be inserted, namely: —

"30B. *Transit of goods through the State and issue of transit pass.*— (1) When a vehicle or vessel carrying goods from any place outside the State and bound for any place outside the State passes through the State, the owner or driver or person in charge of such vehicle or vessel shall obtain a transit pass in the prescribed form for such goods from the officer-in-charge of the first check post after his entry into the State and deliver it to the officer-in-charge of the last check post before his exit from the State.

(2) If the owner or driver or person in charge of such vehicle or vessel fails to deliver the transit pass for such goods referred to in sub-section (1) to the last check post, it shall be presumed that such goods which are liable to tax under this Act have been delivered within the State for sale:

Provided that where the goods carried by such vehicle or vessel are after their entry into the State, transported outside the State by any other vehicle or conveyance, the onus of proving that goods have actually moved out of the State, shall be on the owner or driver or person in charge of the vehicle or the vessel, as the case may be.

(3) Where it is presumed under sub-section (2) that the goods carried in a vehicle or vessel have been delivered within the State for sale by the owner or driver or person in charge of the vehicle or vessel, such owner or driver or person in charge of the vehicle or vessel shall be jointly or severally liable to pay tax which shall be assessed and recovered in accordance with the relevant provision of this Act, irrespective of the limit of any turnover together with an amount of penalty not exceeding twice the amount of such tax as may be assessed, after having given to the `person or persons aforesaid an opportunity

of being heard by the assessing authority under whose jurisdiction the check post is situate.

(4) Where any person consigns any goods or transports any goods from another State into the State and where the particulars furnished in the declaration prescribed in clause (b) of sub-section (2) of section 29 are false or the consignee or purchaser stated therein is found to be bogus or non-existent or is not traceable or denies such purchase, it shall, unless the consignor or the owner of the vehicle or the person in charge of the vehicle proves to the satisfaction of the assessing authority that the particulars furnished in the declaration are true, be presumed that such goods which are liable to tax under this Act have been sold in the State by the consignor or the owner of the goods or the owner or driver or person in charge of the vehicle or the person in charge of the goods or all of them jointly and they shall be jointly or severally liable to pay tax on such sales which shall be assessed and recovered in the manner provided in sub-section (3).

(5) For the purpose of this section, the owner or diver or person in charge of the vehicle or vessel shall, unless he is a registered dealer under this Act, be deemed to be a registered dealer for assessment of tax under this Act."

3. *Repeal and saving.*— (1) The Kerala General Sales Tax (Second Amendment) Ordinance, 1988 (22 of 1988), 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.

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1990 [1]

(Act 3 of 1990)

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.— WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963 for the purposes hereinafter appearing;

BE it enacted in the Forty-first 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, 1990.

(2) Clauses (d) and (e) of section 5 shall be deemed to have come into force on the 1st day of April, 1984 and the remaining provisions shall be deemed to have come into force on the 29th day of August, 1989.

2. *Amendment of Section 5A.*—(1) In sub-section (1) of section 5A of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),—

(a) in the opening paragraph, for the word and figure "section 5" the words, brackets and figures "sub-sections (1), (2), (3), (4) or (5) of section 5" shall be substituted;

(b) in clause (b), before the words "disposes of" the words "uses or" shall be inserted.

3. *Insertion of new section 19C.*—After section 19B of the principal Act, the following section shall be inserted, namely:—

"19C. *Protective assessment.*—Notwithstanding anything to the contrary contained in any judgement, decree, order, direction or decision of any Court, Tribunal or other Authority, where the assessing authority has reason to believe that any person is, or was carrying on business in the name of, or in association with any other person, either directly or indirectly, whether as agent, employee, manager, power of attorney holder, guarantor or in any other capacity, such person and the person in whose name the registration certificate, if any, is taken, shall jointly and severally, be liable for the payment of the taxes, penalty or other amount due under this Act which shall be assessed, levied and recovered from all or any of such person or persons as if such person or persons are dealers:

Provided that before taking action under this section, the persons concerned shall be given a reasonable opportunity of being heard.".

4. *Amendment of section 29A.*—After sub-section (2) of section 29A of the principal Act, the following sub-sections shall be inserted, namely:—

"(2A) Where the owner, driver or person in charge of the vehicle or vessel carrying the goods detained under sub-section (2) is found in collusion for such carrying of goods, the vehicle or vessel shall also be detained by the officer empowered under sub-section (1) and such vehicle or vessel shall be released only on the owner, driver or person in charge of it furnishing the security provided in sub-section (2). In case of failure to furnish the security as above, the officer detaining the vehicle shall have the power to order the vehicle or vessel being taken to the nearest Police Station or to any Check Post or office of the Agricultural Income Tax and Sales Tax Department for safe custody of the goods or the vehicle or the vessel or both:

Provided that where the owner, driver or person in charge of a vehicle or vessel carrying goods is found guilty of the offence under this sub-section for a second or a subsequent time, such vehicle or vessel may be detained for a period not exceeding 30 days from the date of furnishing the security.

(2B) If such officer has reason to believe that the tax payable for the sale or purchase of the goods under transport is not paid or the dealer whose goods are transported has not paid any tax in accordance with the procedure prescribed or has at any time defaulted payment of any tax for any period, such officer may allow the transport of the goods only after realising the tax due on the turnover of the goods transported. If such dealer or driver or person in charge of the goods refuses to pay the tax aforesaid, the goods shall be detained by such officer and shall be dealt with in the manner provided in this section as if the transport of goods were an attempt to evade payment of tax due under this Act.".

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

(a) after serial number 57 and the entries relating thereto, the following serial number and entries shall be inserted, namely:—

"57A.	Copper Sulphate	At the point of first sale in the State by a dealer who is liable to tax under section 5	4";

(b) to serial number 81, the following *Explanation* shall be added, namely:—

"Explanation.—Slotted angles when assembled form furniture or rack shall be deemed to be furniture for the purpose of this entry.";

(c) for each entry under column (3) against serial number 140 (i) to (xxi), the following entry shall respectively be substituted, namely:—

"At the point of sale in the State by any Oil Company liable to tax under section 5 except where the sale is by any Oil Company to another Oil Company and at the point of first sale in the State by a dealer who is liable to tax under section 5 when the sale is not by an Oil Company";

(d) in the entry under column (2) against serial number 155, after the words "Raw Bathis", the words "agarbathis and other scented sticks" shall be added;

(e) in the entry under column (2) against serial number 179, after the words "including chillies", the word "garlic" shall be inserted.

6. *Amendment of the Second Schedule.*—In the Second Schedule to the principal Act,—

(a) for serial number 5 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

"5. Hides and skins whether in a raw or dressed state,—

(a)	Purchased within the State	At the point of last purchase in the State by a dealer who is liable to tax under section 5	4
(b)	Purchased from outside the State	At the point of first sale in the State by a dealer who is liable to tax under section 5	4";

(b) for serial number 7 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

"7. Groundnuts and groundnut seeds,--

(a)	Purchased within the State	At the point of last purchase in the State by a dealer who is liable to tax under section 5	4
(b)	Purchased from outside the State	At the point of first sale in the State by a dealer who is liable to tax under section 5	4".

7. *Repeal and saving.*—(1) The Kerala General Sales Tax (Second Amendment) Ordinance, 1989 (7 of 1989) 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.

THE KERALA GENERAL SALES TAX

(AMENDMENT) ACT, 1995 [1]

(ACT 11 OF 1995)

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.—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;

(6) 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 architect's 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.

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1999[1]

(ACT 10 OF 1999)

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.-- WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963 for the purposes hereinafter appearing;

BE it enacted in the Fiftieth 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, 1999.

(2) Section 3 of this Act shall be deemed to have come into force on the 1st day of April, 1998 and the remaining provisions shall be deemed to have come into force on the 29th day of September, 1998.

2. *Amendment of section 17*.--In section 17 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),--

(a) in the second proviso to sub-section (6), for the word, figures and letters the "30th September,1998", the words, figures and letters "the 31st day of March, 1999" shall be substituted;

(b) in the proviso to sub-section (8), for the words, figures and letters " the 30th day of September, 1998", the words, figures and letters "the 31st day of March, 1999" shall be substituted.

3. *Amendment of the First Schedule*.--In the First Schedule to the principal Act, in the entries in column (2) against Serial No. 87,--

(a) for the word "beverages", the words "Beverages, Horlicks, Boost, Bournvita, Complan" shall be substituted;

(b) for the existing *Explanation*, the following *Explanation* shall be substituted, namely:-

"*Explanation.*- Powders, tablets, granules and concentrates used for the preparation of non-alcoholic drinks or beverages shall, whether or not they are bottled or canned, be liable to tax under this entry.".

4. *Repeal and saving*.- (1) The Kerala General Sales Tax (Amendment) Ordinance, 1998 (13 of 1998), 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.

ACT 4 OF 2002

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 2002 [1]

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.-WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963 (15 of 1963) for the purposes hereinafter appearing;

BE it enacted in the Fifty-third year of the Republic India as follows:-

1. *Short title and commencement*.- (1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 2002.

(2) Clauses (a), (b), (c) and (e) of section 3 and section 4 of this Act shall be deemed to have come into force on the 31st day of December, 2001 and section 2, clause (d) of section 3 and section 5 of this Act shall be deemed to have come into force on the 3rd day of April, 2002.

2. *Amendment of section 5D*.- In the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), in the proviso to section 5D, in clause (a) for the words and figures "serial No.12 of the Fifth Schedule", the words and figures "serial No.108 of the First Schedule" shall be substituted.

3. *Amendment of the First Schedule*.- In the First Schedule to the principal Act,-

(a) after serial numbers 49 and entries against it, the following serial number and entries shall, respectively, be inserted, namely:-

“49 A.	Cutlery	At the point of first sale in the State by a dealer who is liable to tax under section 5	12”;

(b) after serial number 56 and the entries against it, the following serial number and entries shall, respectively, be inserted, namely:-

“56 A	Computer Software	At the point of first sale in the State by a dealer who is liable to tax under section 5”	4";

.

(c) in the entries against item (i) of serial number 106, in column (4) for the figure “4”, the figure “8” shall be substituted;

(d) after serial number 107 and the entries against it, the following serial number and entries shall, respectively, be inserted, namely:-

“108 Petroleum products, namely:-

(i)	High Speed Diesel Oil	At the point of sale in the State by any Oil Company liable to tax under section 5 except where	40

		the sale is by an Oil Company to another Oil Company and at the point of first sale in the State by a dealer who is liable to tax under section 5 when the sale is not by an Oil Company	
(ii)	Kerosene	do	18
(iii)	Motor spirit including Light Diesel Oil (LDO) and excluding petrol, aviation turbine fuel and high speed diesel oil	do	50
(iv)	Naphtha	do	40
(v)	Petrol other than Naphtha	do	44
(vi)	Other Petroleum Products not elsewhere mentioned in this Schedule or in the Second Schedule	do	40
(vii)	Aviation Turbine Fuel including Aviation Gasoline	do	50
(viii)	Liquified Petroleum Gas	At the point of first sale in the State by a dealer who is liable to tax under section 5.	22
(ix)	Lubricating oil, grease, brakefluid, transformer oil and other quenching oils.	do	33

Explanation:- For the purpose of serial Number 108 (i) to (ix) above, "Oil Company" means the Cochin Refineries Ltd., Indian Oil Corporation Ltd., Bharat Petroleum Corporation Ltd., Hindustan Petroleum Corporation Ltd., Indo Burma Petroleum Company Ltd., and includes such other company as the Government may, by notification in the Gazette specify in this behalf".

(e) for serial number 140 and the entries against it, the following serial number an entries shall, respectively, be substituted, namely:-

"140	(i)	Stainless steel sheets not falling under the Second Schedule.	At the point of first sale in the State by a dealer who is Liable to tax under section 5.	8
	(ii)	Articles of stainless steel not falling under the Second Schedule	At the point of first sale in the State by a dealer who is liable to tax under section 5	12".

4. *Amendment of the Third Schedule*.- In the Third Schedule to the principal Act, serial number 12A and the entry against it shall be omitted.

5. *Amendment of the Fifth Schedule*.- In the Fifth Schedule to the Principal Act, serial number 12 and the entries against it and the Explanation thereunder shall be omitted.

6. *Repeat and saving*.- (1) The Kerala General Sales Tax (Amendment) Ordinance, 2002 (2 of 2002) and the Kerala General Sales Tax (Second Amendment) Ordinance, 2002 (4 of 2002) are hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act as amended by this Act.

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1 Received the assent of the Governor on 08-07-2002 and published in the Kerala Gazette Extraordinary No.986 dated 09-07-2002.

ACT 3 OF 2003

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 2003.[1]

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.- WHEREAS it is expedient further to amend the Kerala General Sales Tax Act,1963 for the purpose hereinafter appearing;

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 General Sales Tax (Amendment) Act, 2003.

(2) It shall be deemed to have come into force on the 26th day of October, 2002.

2. *Amendment of section 17*.- In the Kerala General Sales Tax Act,1963 (15 of 1963) (hereinafter referred to as the principal Act), in section 17, for sub-section (4) and the provisos thereunder, the following sub-section and provisos shall be substituted, namely:-

"(4) Notwithstanding anything to the contrary contained in sub-sections (3) and (4A), the assessing authority may accept the return for any year, the assessment relating to which has not been completed along with the statements prescribed, which are in accordance with the provisions of the Act and the Rules made thereunder, submitted by a dealer, having dealings in goods coming under the Third Schedule to the Act, irrespective of any limit in turnover, or by a dealer whose total turnover specified in the return submitted by him for the year to which the assessment relates does not exceed rupees fifteen lakhs or by a dealer having dealings only at non-taxable points of goods coming under the First, Second or Fifth Schedule and whose total turnover specified in the return does not exceed rupees forty lakhs or by a dealer the tax payable by whom for the said year does not exceed rupees five thousand and assess the dealer on the basis of such return:

Provided that every year out of the assessments relating to the preceding year to be completed under this sub-section, the Deputy Commissioner may select twenty per cent by following such procedure as may be specified by the Commissioner, for detailed scrutiny of the accounts and other records and if the dealer is found to have not accounted any purchases or sales or otherwise attempted to evade payment of tax, the assessment of the dealer for the previous five years may be re-opened and escaped turnover shall be assessed or levy of tax be made after following the procedure prescribed in sub-section (3) and the limitation prescribed under any of the provisions of the Act shall not apply to such cases:

Provided further that where the return filed by any dealer falling under any of the categories referred to in this sub-section is not accompanied by any statement required by this Act or the rules made thereunder, in support of any claim or exemption from or

reduction in the rate of tax, the assessing authority shall, after due notice to the dealer, complete the assessment on the basis of the turnover conceded in the return, disallowing the claim for such exemption or reduction to the extent to which it is not proved:

Provided also that where any evasion of tax is detected against any dealer whose assessments have been completed under this sub-section, the dealer shall cease to be eligible for assessment under this sub-section for any subsequent period."

3. *Repeal and saving*.- (1) The Kerala General Sales Tax (Amendment) Ordinance,2002 (9 of 2002) 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 provisions of the principal Act as amended by this Act.

ACT 7 OF 2003

THE KERALA GENERAL SALES TAX (THIRD AMENDMENT) ACT, 2003 [1]

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.- WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963 for the purpose hereinafter appearing;

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 General Sales Tax (Third Amendment) Act, 2003.

(2) It shall come into force on the 1st day of July,2003.

2. *Amendment of section* 5D.- In the Kerala General Sales Tax Act, 1963 (15 of 1963), in section 5D, the second proviso, shall be omitted.

3. *Validation*.- Notwithstanding anything contained in the Kerala General Sales Tax Act, 1963, if any registered dealer has collected any sum purporting to be additional sales tax under section 5D during the period from the 1st day of April, 2003 to the date of coming into force of the Kerala General Sales Tax (Third Amendment) Act,2003, the amount so collected shall be deemed to have been validly collected under the provisions of the Kerala General Sales Tax Act, 1963, as amended by this Act and accordingly the dealer shall be liable to remit the amount to the Government on or before the 31st day of July,2003, by declaring it in the monthly return in which case the penal provision of the said Act shall not apply.

ACT 11 OF 2003

THE KERALA GENERAL SALES TAX (SECOND AMENDMENT) ACT, 2003 [1]

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.--WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

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 General Sales Tax (Second Amendment) Act, 2003.

(2) Sections 2, 5 and 6 of this Act shall be deemed to have come into force on the 28th day of May, 2002, section 3 of this Act shall be deemed to have come into force on the 5th day of August, 2002 and section 4 of this Act shall be deemed to have come into force on the 29th day of July, 1996 and the remaining provisions shall be deemed to have come into force on the 24th day of April, 2003.

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 clause (XVA), the following clause shall be inserted, namely:--

"(XVB) "notified goods" means, coffee, rubber, cardamom, ginger, pepper, arecanut, cashewnut, iron and steel and any other goods notified by the Government;".

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

"(xxiib) "smuggling" means transportation of goods without proper documents as specified in sub-section (1) of section 30E of the Act;".

3. *Amendment of section 7*.--In section 7 of the principal Act, after sub-section (7B), the following sub-section shall be inserted, namely:--

"(7C) Every awarder shall obtain from the contractor or assessee who is liable to tax under clause (iv) of sub-section (1) of section 5 and opted for payment of tax under sub-section (7) or (7A) of section 7 of the Act, a certificate issued by the assessing authority with regard to the tax liability excluding the turnover in respect of inter-state sale and import and shall deduct the tax due as per the said certificate at every time including advance payment and remit it to the Government on or before the fifth day of the succeeding month from the date of such deduction in the prescribed manner."

4. *Amendment of section 22*.- In section 22 of the principal Act, in sub-section (1), after the words "pay over the same" and before the word "Government", the following words shall be inserted, namely :-

"after giving set off to the entry tax, if any , already paid.".

5. *Insertion of new sections 30E and 30F*.-In the principal Act, in sub-section (1), after the words "pay over the same" and before the word "Government", the following words shall be inserted , namely:-

"30E. *Confiscation by authorised officers of notified goods, vessel or vehicle in case of smuggling* .- (1) Notwithstanding anything contained in this Act, the owner or other person in charge of a vehicle or vessel while transporting into or out of the State, coffee, rubber, cardamom, ginger, pepper, arecanut, cashewnut, iron and steel and any other goods notified by the Government, the value of which exceeds rupees two thousand and five hundred or such amount as notified by the Government from time to time, shall carry with him in addition to the documents prescribed under section 29 of the Act, a permit issued by the officer empowered in this behalf or the assessing authority, as the case may be, in the prescribed form.

Note:--If the transport of notified goods is not accompanied by the documents

specified in sub-section (1) above, it shall be deemed to be smuggling of the notified goods for the purposes of the Act.

(2) Any officer authorised by the Government in this behalf shall have the power to intercept and search the vehicle or vessel or any conveyance referred to in sub-section (1), at any place within the State for the purpose of enabling such officer to verify whether any notified goods are being transported in contravention of sub-section (1).

(3) If on verification, such officer has reason to suspect that the notified goods are being transported in contravention of the provisions of sub-section (1), he may without any unreasonable delay, produce the goods and the vehicle before such officer authorised by the Government by notification in the Gazette, not below the rank of an Inspecting Assistant Commissioner.

(4) Where the authorised officer is satisfied that the driver or other person in charge of the vehicle or vessel transported the notified goods in contravention of sub-section (1), or the documents produced are false or reasonably suspected to be false in respect of the particulars furnished therein, the authorised officer shall have the power to seize and detain the notified goods along with vehicle or vessel:

Provided that before taking action of seizure and detention, the authorised officer shall give the person in charge of the notified goods and the owner of the notified goods,

if ascertainable, and to the owner of the vehicle or vessel a notice in writing informing him the reason for the seizure and detention and an opportunity of being heard:

Provided further that the authorised officer may release the notified goods and the vehicle or vessel seized and detained, if the owner or the person in charge of the notified goods or owner or person in charge of the vehicle or vessel files an option to pay in lieu of seizure and detention, a penalty equal to thrice the amount of tax due at the rate applicable to the goods liable to seizure and detention and twice the amount of tax due or an amount of rupees fifty thousand whichever is higher for the release of the vehicle or vessel in lieu of detention:

Provided also that if the owner of the vehicle or vessel produces the permit prescribed in sub-section (1) and the owner of the notified goods proves the *bonafides* of the transport of goods within seven days of the seizure and detention, the authorised officer shall release the goods and the vehicle.

(5) Notwithstanding anything contained in the foregoing provisions, if the owner or person in charge of the notified goods or the owner or person in charge of the vehicle fails to prove the genuineness of the transport of the goods or to remit the penalty as specified in the second proviso to sub-section (4) within 30 days from the date of seizure and detention of goods and the authorised officer has reasons to believe that the owner or the persons in charge of the vehicle or vessel has transported the notified goods to evade payment of tax with the knowledge or connivance of the owner of the goods, the authorised officer may confiscate the vehicle or vessel along with the notified goods.

(6) No order confiscating any vehicle or vessel shall be made under sub-section (5), if the owner or the person in charge of the vehicle or vessel proves to the satisfaction of the authorised officer that it was used for carrying the notified goods without the knowledge or connivance of the owner himself, his agent, if any, or the person in charge of such vehicle or vessel and that each of them has taken all reasonable and necessary precautions against such use:

Provided that the authorised officer shall serve notice to the owner of the vehicle or vessel or the person in charge of the vehicle or vessel or the owner of the notified goods, if ascertainable, intimating the reason for the confiscation of the vehicle or vessel and an opportunity of being heard. The authorised officer shall also afford an opportunity to pay a penalty equal to thrice the amount of tax attempted to be evaded by the owner of the goods and rupees one lakh by the owner or person in charge of the vehicle or vessel in lieu of confiscation of vehicle. If the owner of the notified goods is not ascertainable or not willing to remit the penalty specified, the owner of the vehicle or vessel or the person in charge of the vehicle or vessel shall pay thrice the amount of tax sought to be evaded and an amount of rupees one lakh in lieu of confiscation of the notified goods and vehicle or vessel.

(7) The permit referred to in this section shall be obtained either from the officer empowered to in this behalf in the border checkpost or from the assessing authority, as the case may be, for the transport of notified goods into or out of the State.

(8) Any person aggrieved by an order under sub-section (6) may, within thirty days from the date of communication to him of such order, file an application for revision, in such manner and in such form, as may be prescribed and accompanied by a fee of rupees five hundred before the Deputy Commissioner and the Deputy Commissioner may pass such orders thereon as he think fit:

Provided the Deputy Commissioner may admit an application for revision filed after the expiry of the said period, if he is satisfied that the applicant had sufficient cause for not filing the revision within the said period.

(9) Any person aggrieved by an order under sub-section (8) may within thirty days from the date of communication to him of such order, file a revision in such manner and in such form as may be prescribed and accompanied by a fee of rupees five hundred before the Commissioner and the decision of the Commissioner shall be final:

Provided that the Commissioner may admit an application for revision filed after the expiry of the said period, if he is satisfied that the applicant had sufficient cause for not filing the application within the said period.

(10) Where an order of confiscation under this section has become final in respect of any goods, vehicle or vessel, such goods, vehicle or vessel, as the case may be, shall vest in the Government free from all encumbrances.

(11) the award of confiscation under this section shall not prevent the infliction of any punishment to which the person affected thereby is liable under the Act.

30F. *Procedure as to perishable goods seized under section 30E*.--(1) Not-withstanding anything contained in section 30E, the authorised officer may direct the sale of any goods seized under that section which is subject to speedy and natural decay and remit the sale proceeds into the Government Treasury.

(2) The authorised officer may deal with the proceeds of the sale of goods under sub-section (1) in the same manner as he might have dealt with the goods, if it had not been sold.

6. *Amendment of section 31*.--In section 31 of the principal Act, after clause (ii), the following clause shall be inserted, namely:--

"(iii) Any person who undertakes to transport or deliver any consignment of notified goods in any vehicle or vessel or any other conveyance exceeding the value of rupees two thousand and five hundred or such amount as notified by the Government

from time to time, shall have a permit obtained from the authority as prescribed in sub-section (7) of section 30E.".

7. *Repeal and savings*.--(1) The Kerala General Sales Tax (Amendment) Ordinance, 2003 (4 of 2003) 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 take under the principal Act as amended by this Act.