

# THE KERALA TAX ON ENTRY OF GOODS INTO LOCAL AREAS RULES, 1994

[IN CORPORATING UPTODATE AMENDMENTS]

## CHAPTER I PRELIMINARY

1. **Short title and Commencement:** - (1) These rules may be called "The Kerala Tax on Entry of Goods into Local Areas Rules, 1994".

(2) They shall come into force at once.

2. **Definition:** - (1) In these rules, unless the context otherwise requires, -

(a) "Act" means the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994);

(b) "Deputy Commissioner" means the Deputy Commissioner of Sales Tax;

(c) "Registering Officer" means the officer empowered under the Motor Vehicles Act, 1988 (Central Act, 59 of 1988) to register the motor vehicle;

(d) "Taxable purchase value" means the purchase value of the Goods in respect of which an importer shall be liable to pay tax under the Act;

(e) "Total purchase value" means the aggregate of the purchase value of all the Goods imported into the local area, whether the whole or any portion of the purchase value is or is not liable to tax under the Act,

(2) Words and expressions used, but not defined in these rules and defined in the Kerala General Sales Tax Rules, 1963 and Kerala Value Added Tax Rules 2005 shall have the

meanings respectively assigned to them under those rules in respect of the provision connected with the said Rules.

**3. Determination of taxable purchase value:** - The taxable purchase value shall be determined after making the following deductions from the total purchase value.

(a) purchase value of motor vehicles registered in any Union Territory or any other State under the provisions of the Motor Vehicles Act, 1988 (Central Act 59 of 1988) prior to a period of fifteen months or more from the date on which it is registered in the State;

b) purchase value of <sup>1</sup>Goods on which tax has been paid in any other local area in the State.

## **CHAPTER II**

### **FILING OF RETURN, ASSESSMENT AND RECOVERY' IIT OF TAX AND PENALTY**

**4. Filing of return:** -(1) Every importer, being a dealer in any goods, shall file before the assessing authority, with whom he is registered as a dealer under the Kerala General Sales Tax Act 1963 (15 of 1963) and Kerala Value Added Tax Act, 2003 (30 of 2004), on or before the 10<sup>th</sup> day of every month, a return in Form No.1, showing the total purchase value, exempted purchase value and the taxable purchase value for the preceding month, together with a Government Treasury chalan receipt as token of having paid the amount of tax payable under section 3 of the Act in respect of the preceding month.

(1A) Every importer registered under KGST Act, 1963 or under the KVAT Act 2003 may, at his option remit the tax in respect of any import in advance before the assessing authority and there upon the assessing authority shall issue a certificate in Form No.12. The certificate shall be in triplicate. The importer shall produce the original and

duplicate copies of the certificate before the check post through which the goods are imported along with the copies of documents. The officer in charge of the check post shall verify the goods and satisfy him self that the value and quantity of the goods covered by the certificate agree with those of the goods physically available in the vehicle under transport and return the duplicate copy to the certificate to the assessing authority who issued the certificate.

(2) Every importer of motor vehicles other than those falling under Sub-rule (1) shall, at any time before registering the vehicle under the Motor Vehicles Act, 1988, file a return in Form No.2, in duplicate, before the registering officer or the assessing authority having jurisdiction over the area in which the office of registering officer under the said Act is situate, showing the total purchase value of the motor vehicles imported by him into the Local Area together with a Government Treasury chalan receipt in token of having paid the amount of tax payable under section 3 of the Act or accompanied by a crossed demand-draft drawn in favour of the assessing authority on any Nationalized Bank in full satisfaction of the amount of the said Tax payable by such importer on the purchase value of the motor vehicle.

Provided that no such return shall be necessary where the motor vehicle was registered in any Union Territory or any other State under the provisions of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), prior to a period of fifteen months or more from the date on which it is registered in the State.

(2A) Every importer other than those falling under sub-rule (1) and (2) shall, at the time of entry into any local area, file a return in Form No.2B, in duplicate before the officer in charge of the check post established under section 29 of the Kerala General Sales Tax Act, 1963 or section 46 of the Kerala Value Added Tax Act, 2003 or where there is no such check post, before the assessing authority having

Jurisdiction over the local area into which the goods are first entered, showing the total purchase value of the goods imported by him into the local area together with a Government Treasury Chalan receipt in token of having paid the amount of tax payable under Section 3 of the Act or accompanied by a crossed demand draft drawn in favour of the assessing authority or any Nationalized Bank in full satisfaction of the amount of the said tax payable by such importer on the purchase value of the goods.

(3) The returns submitted as required by sub-rule (2) or 2(A) shall, subject to the provisions of sub-rule (5), be provisionally accepted.

(4) (i) In the case of return filed under sub-rule (2) before the assessing authority, the assessing authority shall issue a certificate of payment of tax due under the Act, in Form No.2A in respect of the motor vehicle in relation to which the return is submitted, and the same shall be filed before the registering officer.

(ii) In the case of a return filed before the Registering Officer under the Motor Vehicles Act, 1988 the Registering Officer shall, if it is satisfied that the tax due on the taxable purchase value has been paid, and subject to the provisions of the Motor Vehicles Act, 1988, register the vehicle and forward the return together with the treasury chalan receipt or demand draft to the assessing authority specified in clause (i) on or before the 5<sup>th</sup> day of the succeeding month. A register in Form No.3 shall be maintained by the Registering Officer.

(iii) In the case of a return filed under sub-rule (2A) before any authority other than the assessing Authority having jurisdiction over the area in which the goods are intended to be consumed, used or sold, such authority shall issue a certificate of payment of tax due under the Act in Form

No.3A. A register in Form No.3B shall be maintained by the Registering Officer.

(5) If no return is submitted, or if the return submitted appears to the assessing authority to be incorrect or incomplete, the assessing authority may, after making such enquiry as it may consider necessary and after taking into account all relevant materials gathered by it and after issuing notice to the importer calling upon him to produce such documents or evidence, as it may consider necessary to prove the correctness or completeness of the return, assess provisionally the tax payable and shall serve upon the importer a demand notice in Form No.4 and the importer shall pay the sum demanded within the time and in the manner specified in the notice.

**5. Annual Return and Assessment:** - (1) After the close of the year, the importer falling under sub-rule (1) of rule 4 shall, on or before the 1<sup>st</sup> day of May of the succeeding year, submit to the assessing authority an annual return in Form No.1 together with a statement showing the particular of remittance of tax due as per the said return.

(2) On receipt of the return specified in rule (1) the assessing authority shall, if it is satisfied after such scrutiny of the accounts and enquiry as it may consider necessary, that the return is correct and complete, finally assess, on the basis of the said return, the tax payable for the year to which the return relates.

(3) If no return is submitted, or if the return submitted appears to be incorrect or incomplete, the assessing authority shall, after following the procedure laid down in sub-rule (5) of rule 4 determine the purchase value and assess, the tax payable to the best of its judgment and shall serve upon the dealer a demand notice in Form No.4.

**6. Signing and verifying of Returns:** - All returns prescribed under these rules shall be signed and verified in the manner provided therein by such person as could have signed and verified a return had it been a return filed under the provisions of the General Sales Tax Act or the Kerala Value Added Tax Act and the Rules made there under.

**7. Mode of payment of penalty:** - (1) The penalty payable under sub-sections (1) or (2) of section 15 shall be remitted into the Government treasury or paid by means of a crossed demand draft drawn in favour of the assessing authority or any Nationalized bank.

(2) The assessing authority concerned may calculate the penalty payable under sub-section (2) of section 15 from time to time and may issue a notice in Form No.4. On receipt of the notice the importer shall pay the penalty in the manner specified therein.

**Explanation:** - The importer concerned shall, however, be liable to pay the penalty under sub-section (2) of section 15 whether he receives a notice under this sub-rule or not.

**7A. Notice for further mode of recovery:** - The notice referred to in sub-section (1) of section 10A shall be in Form No.4A

## CHAPTER III

### APPEALS AND REVISION

**8. Appeals:** - (1) Every appeal to the Appellate Assistant Commissioner or to the Deputy Commissioner (Appeals) shall be in Form No.5 and shall be verified in the manner specified therein. The appeal memorandum shall be filed in duplicate and shall be accompanied by the original or a

certified copy of the order appealed against and a fee of three hundred rupees.

Provided that the Appellate Assistant Commissioner or Deputy Commissioner (Appeals) may admit an appeal not accompanied by the order or copy of the order appealed against, if the omission to produce such order or copy is explained to the satisfaction of the Appellate Assistant Commissioner or Deputy Commissioner (Appeals) as the case may be.

(2) The appeal may be sent to the Appellate Assistant Commissioner or Deputy Commissioner (Appeals) by post or presented to that authority by the Appellant or his authorised agent or a legal practitioner.

**8A. Filing appeal to the Appellate Tribunal, - (i)**

(a) Every appeal under section 14A(1) to the Appellate Tribunal shall be in Form No.5A and shall be verified in the manner specified therein.

(b) It shall be in quadruplicate and accompanied by four copies (one of which shall be the original or authenticated copy) of the order appealed against and also three copies of the order of the assessing authority.

(c) In the case of an appeal against any order referred to under sub-section (3) of Section 13 of the Act shall be accompanied by the original of the demand notice.

(ii) The notice referred to in sub-section 3 shall be in Form No.9.

(iii) After the final hearing of the appeal, the Appellate Tribunal shall notify a date, which shall not be later than 30 days from the date of such final hearing, for the pronouncement of the order in such appeal, and on such

notified date the Appellate Tribunal, shall pronounce the order.

(iv) The order in appeal shall be communicated to the appellant and respondents within sixty days of the pronouncement of such order.

**9. Filing of application:** - Every application under section 14 A shall be in Form No.6 and shall be verified in the manner specified therein and it shall be accompanied by a fee of five hundred rupees.

**9A. Payment of fees on interlocutory applications:** - (1) Fees at the rates mentioned in section 14B shall be paid on the following interlocutory applications.

(a) application for staying the collection of any tax or other amount which is disputed in appeal, revision or other proceedings, as the case may be.

(b) application for advancing the hearing of any appeal, revision or other proceedings, as the case may be.

(c) application for condonation of delay in the filing of any appeal, revision or application as the case may be.

(2) The interlocutory applications mentioned in sub-rule (1) shall be in Form No. 6A.

**9B. Filing of petition to the High Court:-** (1) Every petition under sub-section (1) of section 14AB shall be in Form No.13 and shall be verified in the manner specified therein.

(2) The petition to the High Court shall be accompanied by a certified copy of the order of the Appellate Tribunal.

(3) Every application for review under sub-section (8) of section 14AB to the High Court shall be in Form No. 14 and shall be verified in the manner specified therein

**10. Communication of order etc:** - (1) Every order of an Appellate Authority or Deputy Commissioner under section 13 or of the Commissioner Commercial Taxes under section 14 shall be communicated to the Appellant or the Applicant, as the case may be to the Authority against whose order the appeal or revision was filed and also to any other authority concerned.

(2) The order passed in appeal or revision shall be given effect to by the assessing authority who shall either refund or adjust within 90 days of receipt of the order as provided for in section 11, any excess tax found to have been paid by the importer and shall collect any additional tax, which is found to be due, in the same manner as a tax assessed by it.

## CHAPTER IV

### POWERS OF INSPECTION OF BUSINESS PLACES AND PRODUCTION OF ACCOUNTS

**11. Maintenance and preservation of account:** - Every importer who is a dealer under the provisions of the General Sales Tax Act or Kerala Value Added Tax Act shall maintain the following books of accounts, disclosing true and complete accounts of his daily transactions in Malayalam or English, relating to Goods imported by him into the local areas for use or sale therein, namely: -

(1) a daily Cash Book, that is to say, a record of all cash receipts and payments, kept and maintained from day to day indicating the cash balance in hand at the end of each day, with supporting bills and vouchers;

(2) a Journal, if the accounts are maintained according to mercantile system of accounting;

(3) a Ledger.

**12. Powers to order production of accounts and powers of entry inspection, etc:** - (1) An Assessing Authority may for the purposes of this Act, by notice, require any importer-

(a) to produce or cause to be produced before it any accounts, registers, records or other documents; or

(b) to furnish or cause to be furnished any other information, relating to his business, and such importer shall comply with such requisition.

(2) All Accounts, registers and other documents maintained by an importer, the Goods in his possession and his offices, shops, godowns, vessels or vehicles shall be open to inspection at all reasonable times by such Officers as may be authorised by the Government in this behalf.

## **CHAPTER IVA**

### **DISPOSAL OF GOODS SEIZED**

**12A. Procedure for disposal of detained goods.** –(1) Where the goods seized under section 9B of the Act are to be sold in public auction, the officer liable to assess the tax shall cause to be published in the notice board of his office, a list of goods seized and intended for sale with a notice under his signature specifying the place, the time and date on which the seized goods shall be sold and shall display copies of such list and notice in more than one public places in the notified area in or around the place where the goods are retained.

(2) Where the value of the goods exceeds one thousand rupees, copies of the list and notice shall also be published at the office of the Inspecting Assistant Commissioner concerned.

(3) No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice is affixed.

(4) The officer shall conduct the sale in person and the goods seized shall be made available at the place of sale:

Provided that nothing in this Rule shall prevent the officer in charge of the notified area from conducting sale of goods covered under sub-section (5) of Section 9B of the Act.

(5) On the appointed time and date of public auction, the goods shall be put in one or more lots as the officer conducting the sale may deem fit and shall be knocked down in favour of the highest bidder subject to confirmation of the sale by the Inspecting Assistant Commissioner where the value of the goods auctioned does not exceed one thousand rupees and by the Deputy Commissioner in other cases.

(6) Where the amount fetched in auction is more than the amount of tax due from the owner of the goods, the surplus after reducing the tax due, the cost of service, publication of notice and the expense for the conduct of sale and other charges which are incidental thereto shall be refunded to the owner of the goods.

(7) The auction purchaser shall pay the sale value of the goods in cash immediately after the sale and he shall not be permitted to carry away any part of the goods unless and until he has paid the full amount of the sale value of the goods purchased in auction.

(8) Where the purchaser fails to pay the sale value of goods in cash the goods shall be resold at once and the defaulting purchaser shall be liable for any loss incurred there from as well as the expenses incurred in the resale.

(9) The sale proceeds of the public auction conducted as per sub-section (4) or (5) of section 9B of the Act shall be remitted into the Government treasury.

## CHAPTER V

### MISCELLANEOUS

**13. Burden of Proof:** - An importer claiming exemption shall produce on demand by the assessing authority concerned such documents and other particulars as may be required by it.

**14. Sending of reports in case of death of an importer:** - When an importer dies, his executor, administrator or other legal representative shall, within thirty days of the death of the importer or within thirty days of his taking charge as such executor, administrator or other legal representative whichever is later, shall send a report of his having done so to the Assessing Authority concerned.

**15. Assessment of legal representatives:** - When a dealer dies without having furnished the return prescribed under the provisions of the Act or the rules made thereunder or after having furnished the return but before assessment, the assessing authority may proceed to make an assessment and determine the tax or fee or other amount payable by the deceased, and for this purpose, he may require the executor, administrator or other legal representative as the case may be, of the deceased person to perform all or any of the obligations which he might under the provisions of the Act have required the deceased to perform. The tax or fee or other amount thus determined shall be payable by the executor, administrator or other legal representative of the

deceased to the extent of the assets of the deceased in his hands.

**16. Report of dissolution of partnership:** - If a partnership is dissolved, every person who was a partner shall send within thirty days of such dissolution, a report of the dissolution to the assessing authority concerned, together with a copy of the deed of dissolution.

**17.** The authorisation referred to in section 18A shall be in Form No.11 and shall bear a court fee stamp of Rs.25 (Rupees twenty five only).

**18. Service of Notice:** - Any notice required to be served on, or given to, any person under this Act or the rules made there under shall be deemed to be duly served or given.-

(a) if the notice is addressed to that person and is given or tendered to him;

(b) where that person cannot-be found, if it is affixed on some conspicuous part of his last known place of residence or business or is tendered to some adult member of his family, or

(c) if it is sent by registered post to that person at his last known place of residence or business.

**19. Refund payment order:** - Where a refund is made, the assessing authority shall issue a refund order in Form No. 7 to the party concerned and simultaneously give due intimation to the Treasury Officer concerned regarding the issue of refund.

**20. Issue of refund adjustment order:** - Whenever any excess tax refundable, to an importer is adjusted towards any amount due from him under the Act the assessing authority shall issue a refund adjustment order in Form No.8.

**21. Transfer of case:** - (1) Commissioner Commercial Taxes or the Deputy Commissioner, may by order in writing at any time, transfer any case pending before an assessing authority to another assessing authority and the authority to which the case is transferred may proceed either de novo or from the stage at which it was transferred. The Deputy Commissioner shall exercise this power only in respect of cases of the assessing authorities who are within the limits of his jurisdiction.

(2) Where a case pending before an assessing authority is transferred to another assessing authority under sub-rule (1), the assessing authority to which the case is so transferred shall notwithstanding anything contained in these rules, or in any notifications issued under sub-section (2) of section 3 have the same powers as those respectively conferred upon the assessing authority from which the case was so transferred.

**22. Transfer of appeals:** - The Commissioner Commercial Taxes may either suo-motu or on application, for reasons to be recorded in writing, transfer an appeal pending before an Appellate Authority or Deputy Commissioner to another appellate authority or Deputy Commissioner as the case may be. The authority to whom the appeal is transferred under this rule shall proceed to dispose of it irrespective of the local limits of jurisdiction.

**23. Issue of notice or summons for production of accounts:** - The Assessing Authority shall issue a notice in Form No.10 for production of accounts or appearance of any person.

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