

KERALA BUILDING TAX ACT, 1975 (NO.7 OF 1975)

THE KERALA BUILDING TAX ACT, 1975 (Act of 1975) CONTENTS Preamble. Sections 1 2 3 4. 5 6. 7. 8. 9. 10. 11 12 13. 14 15. 16. 17 18. 19 20. 21. 22. 23. 24 25

26. Short title, extent and commencement Definitions Exemptions Authorities Charge of building tax Determination of capital value Return of completion, etc , of building Return after due date and amendment Assessment. Notice of demand Appeals Reference to District Court of return. Power of revision of the District Collector Power of revision of the Government Rectification of mistakes. Revision of building tax when annual value is revised by local authority Power to take evidence on oath, etc. Payment of building tax. Mode and time of recovery. Refunds False statements in declaration. Failure to furnish return Power of Inspection Prosecutions Manner of service of notice. Power to make rules. 27. 28. 29. 30 31. 74 Bar of suits etc. Computation of period of limitation. Building tax not to be taken into fair rent. Removal of difficulties. Repeal and saving. THE SCHEDULE account in fixing THE KERALA BUILDING TAX ACT, 1975* (Act 7 of 1975) An Act to provide for the levy of a tax on buildings Preamble.—WHEREAS It is expedient to provide for the levy of a tax on building ; BE It enacted In the Twenty-sixth Year of the Republic of India as follows . — 1 Short title, extent and commencement. This Act may be called the Kerala Building Tax Act, 1975. It extends to the whole of the State of Kerala (2) It shall be deemed to have come into force on the (3) 1st day of April, 1973

2. Definitions.—In this Act, unless the context otherwise requires,— (a) "annual value" of a building means the gross annual rent at which the building may at the time of completion be expected to let from month to month or from year to year ; (b) "appellate authority" means an appellate authority appointed under section 4 ; (c) "assessee" means a person by whom building tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceeding under Act has been taken for the assessment of the building tax payable by him *Received the assent of the Governor on the 2nd day of April, and published in the Gazette Extraordinary No. 171 dated 2nd April this year- 1975 1975. 75 (d) "assessing authority" means an assessing authority appointed under section 4; (e) "building" means a house, out-house, garage, or any other structure, or part thereof, whether of masonry, bricks, wood, metal or other material, but does not include any portable shelter or any shed constructed principally of mud, bamboos, leaves, grass or thatch or a latrine which is not attached to the main structure. Explanation 1.—In the case of buildings constructed for providing housing accommodation for workers and their families residing in plantations, in pursuance of section 15 of the Plantations Labour Act, 1951 (Central Act 69 of 1951) or buildings constructed under the Government of India Subsidised Housing Scheme for Industrial workers, each part of a building providing or intended to provide accommodation for a worker or a worker and his family shall be deemed to be a separate building Explanation 2.—Where a building consists of different apartments or flats owned by different persons and the cost of construction of the building was met by all such persons jointly, each such apartment or flat shall be deemed to be a separate building , (f) "capital value" of a building means the value arrived at by multiplying the annual value of a building by sixteen , (g) "local authority" means a municipal corporation or a municipal council or a township committee or a panchayat or a cantonment board , (h) "major repair or improvement", in respect of a building, means a repair or improvement as a result of which the capital value of the building is increased by more than twenty thousand rupees , (i) "owner" includes a person who for the time being receiving, or is entitled to receive, the rent of any building, whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other person or who should so receive the rent or be entitled to receive it If the building or part thereof were let to a tenant , (j) "prescribed" means prescribed by rules made under this Act. 76 3 Exemptions.—(1) Nothing in this Act shall apply to— (a) buildings owned by the Government of Kerala or the Government of India or any local authority ; and (b) buildings used principally for religious, charitable or educational purposes or as factories or workshops. Explanation.—For the purposes of this sub-section, "charitable purpose" includes relief of the poor and free medical relief. If any question arises as to whether a building falls (2) under sub-section (1), It shall be referred to the Government and the Government shall decide the question after giving the Interested parties an opportunity to present their case. (3) A decision of the Government under sub-section (2) shall be final and shall not be called in question in any court of 4 Authorities.—(1) The Government may, by

notification in the Gazette, appoint such officers as they think fit to be assessing authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit (2) The Government may, by notification in the Gazette, appoint such officers as they think fit to be appellate authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit (3) All officers and persons employed in the execution of this Act shall observe and follow the orders, Instructions and directions of the Board of Revenue • Provided that no such orders, Instructions or directions shall be given so as to interfere with discretion of the appellate authority In the exercise of its appellate functions 5. Charge of building tax.—(1) Subject to the other provisions contained in this Act, there shall be charged a tax (hereinafter referred to as building tax") at the rate specified in the Schedule in respect of every building the construction of which is completed on or after the 1st day of April, 1973, and the capital value of which exceeds twenty thousand rupees. 77 (2) Every major repair of, or improvement to, a building constructed before the 1st day of April, 1973, made on or after that date shall be liable to the building tax at the rate referred to in sub-section (1) on the difference between the capital value of the building before effecting the major repair or improvement, as the case may be, and the capital value of the building after effecting the major repair or improvement (3) A building the construction of which is completed on or after the 1st day of April, 1973, and which is not liable to be taxed under the provisions of this Act on account of its having a capital value of not more than twenty thousand rupees, shall become liable to be so taxed if the capital value of the building subsequently increases to more than twenty thousand rupees by new constructions or additions or combinations or as a result of repairs or improvements to the building. (4) Where the capital value of a building which has already been taxed under this Act is subsequently increased by more than ten thousand rupees by new constructions or additions or combinations or as a result of repairs or improvements, building tax shall be computed on the capital value of the building including that of the new constructions or additions or combinations or, as the case may be, of the building as so repaired or improved, and credit shall be given to the tax already levied. (5) Where there are out-houses, garages or other structures appurtenant to the main building, the capital value of such structures shall be determined in the manner specified in section 6 and the capital value so obtained shall be added on to the capital value of the main building (6) The building tax shall be payable by the owner of the building Explanation 1.—For the purposes of this Act, the construction of a building shall be deemed to have been completed when it is ready for occupation or has been actually occupied, whichever is earlier Explanation 2.—For the purposes of assessment under sub-section (3) or sub-section (4), capital value of a building shall be the capital value on the date of completion of the new constructions or additions or combinations or, as the case may be, on the date of completion of the repairs or improvements. 78 6. Determination of capital value.—(1) For determining the capital value for the purposes of this Act, the annual value of a building shall be the annual value fixed for that building in the assessment books of the local authority within whose area the building is situated. (2) Notwithstanding anything contained in sub-section (1), if the assessing authority is of opinion that the annual value fixed for a building in the assessment books of the local authority is too low, it may, after giving the person or persons affected thereby an opportunity of being heard, fix the annual value of the building, (3) Where the local authority has not fixed the annual value of a building in any case falling under sub-section (2) or sub-section (3) or sub-section (4) of section 5 within a period of SIX months after the completion of the repair or improvement or the construction or addition or combination, as the case may be, the assessing authority may, after giving the person or persons affected thereby an opportunity of being heard and after informing the local authority concerned, assess the annual value of the building (4) In determining the annual value under sub-section (2) or sub-section (3), the assessing authority shall have regard to the following factors, namely :— (a) the location of the building, (b) the nature and quality of the structure of the building; (c) the capability of the building for profitable use; (d) amenities provided in the building, access to the building from public roads or water ways (f) constructed, (h) the value of the land on which the building is the estimated cost of construction of the building; such other factors as may be prescribed. 79 7. Return of completion, etc., of building.—(1) The owner of every building— (a) the construction of which is completed on or after the 1st day of April, 1973, and the estimated capital value of which is more than twenty thousand rupees; or (b) the construction of which was completed before the 1st day of April, 1973 and to which major repairs or improvements are made after the said date; or (c) the construction of which has been completed on or after the 1st day of April, 1973, and whose capital value subsequently increases to more than twenty

thousand rupees due to new constructions or additions or combinations or as a result of repairs or improvements ; or (d) which has already been taxed under this Act and the capital value of which subsequently Increases by more than ten thousand rupees by new constructions or additions or combinations or as a result of repairs or improvements, shall furnish to the assessing authority a return In the pres- cribed form and verified In the prescribed n-manner and contain- ing such particulars as may be prescribed (2) A return under sub-section (1) shall be furnished— (a) in the case of buildings the construction of which has been completed before the 27th July 1974, within two months from that date ; (b) in the case of major repairs or improvements or new constructions or additions or combinations, or other repairs or improvements, made before the 27th July, 1974, within two months from that date , (c) in other cases, within two months from the date of completion of the construction of the building or the completion of the repairs or improvements or the new constructions or additions or combinations (3) If the assessing authority is of opinion that any person is liable to furnish a return under sub-section (1), then, notwithstanding anything contained in that sub-section, it may serve a notice upon that person requiring him to furnish with- in such period, not being less than thirty days from the date of 80 service of the notice, as may be specified in the notice, a return m the prescribed form and verified in the prescribed manner and containing such particulars as may be specified in the notice. (4) The assessing authority may, if it is satisfied that It is necessary so to do, extend the date for the furnishing of the return under this section

8. Return after due date and amendment of return.—If any person has not furnished a return within the time allowed by or under section 7, or having furnished a return under that section discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment IS made 9. Assessment.—(1) If the assessmg authority IS satisfied that a return made by an owner under section 7 or section 8 is correct and complete, It shall assess the amount payable by him as building tax on the basis of the return. (2) If the assessing authority is not so satisfied, it shall serve a notice on the assessee either to attend in person at its office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which the assessee may rely m support of his return (3) The assessing authority, after hearing such evidence as the assessee may produce and such other evidence as it may require on any specified point and after conducting such inquiries or inspection as it may consider necessary, shall, by order in writing, assess the amount payable by him as building tax (4) For the purpose of making an assessment under this Act, the assessing authority may serve on any person who has made a return under sub-section (1) of section 7 or section 8 or upon whom a notice has been served under sub-section (3) of section 7, a notice requiring him to produce or cause to be produced on a date specified In the notice such records or other documents as the assessmg authority may require If any person falls to make a return m response to (5) any notice under sub-section (3) of section 7, or falls to comply with the terms of any notice issued under sub-section (2) or 81 sub-section (4) of this section, the assessing authority shall assess the amount payable by the person as building tax to the best of its Judgment

10. Notice of demand.—When any building tax is due in consequence of any order passed under or in pursuance of this Act, the assessing authority shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable

11. Appeals.—(1) Any assessee objecting to the amount of building tax assessed under section 9 or denying his liability to be assessed under this Act or objecting to any order of the assessmg authority under this Act may appeal to the appellate authority against the assessment or against such order : Provided that no such appeal shall he unless the building tax has been paid. (2) An appeal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner. (3) The appeal shall be presented within a period of thirty days from the date of service of the nonce of demand relating to the assessment or the date of service of the order, as the case may be, but the appellate authority may admit an appeal presented after the expiration of the said period if It satisfied that the appellant had sufficient cause for not present- ing it within the said period, provided however that no such appeal shall be admitted after a period of six months from the date of service of the notice of demand relating to the assess- ment or the date of service of the order, as the case may be (4) The appellate authority shall fix a day and place for the heanng of the appeal and may from time to time adjourn the hearing and make or cause to be made such further inquiry as it thinks fit. (5) At the hearing of the appeal the assessing authority shall also have a right to be heard (6) In disposing of an appeal, the appellate authority may, subject to the provisions of section 12,—

(a) in the case of an order of assessment— 3/24A--6 (i) (li) 82 confirm, reduce, enhance or annul the assess- ment ; set aside the assessment and direct the assess- Ing authority to make a fresh assessment after such further inquiry as may be directed; or (b) in the case of any other order, confirm, cancel or vary such order. (7) The appellate authority shall, on the conclusion of the appeal, communicate the orders passed by it to the assessee and the assessing authority. (8) The orders passed by the appellate authority shall, subject to the provisions of sections 13 and 14, be final and Shall not be liable to be questioned in a court of law. 12 Reference to District Court.—(1) The appellate autho- rity may, if it IS satisfied either suo motu or on application by any party to an appeal under section 11 that the decision on the appeal involves a question of law, draw up a statement of the case and refer It to the District Court (2) If the District Court IS not satisfied that the statement in a case referred under this section IS sumclent to enable It to determine the question raised thereby, the court may refer the case back to the appellate authority to make such additions thereto or alterations therein as the court may direct in that behalf. (3) The District Court, upon the hearing of any such case, shall decide the question of law raised therem and shall deliver Its judgment thereon containing the grounds on which such decision IS founded and shall send a copy of such judg- ment under the seal of the court to the appellate authority which shall pass orders on the appeal m conformity With such Judgment (4) For the purposes of this section, "District Court" means the District Court havmg Jurisdiction over the area in which the building in respect of which building tax has been levied is situate. 83 13. Power of revision of the District Collector. The District Collector may, either suo motu or on application by any person aggrieved, call for and examine the record of any order passed by the appellate authority or the assessmg authority and may pass such order in reference thereto as he thinks fit Provided that no such order shall be passed under this sub-section without notice to the party who may be affected by the order: Provided further that the District Collector shall not call for and examine the record of any order passed by the assessmg authority— (a) if the period of thirty days specified for presen- tation of appeal under sub-section (3) of section 11 has not expired; or (b) if an appeal against that order is pending before the appellate authority: Provided' also that no order passed on the basis of a reference under section 12 to the extent covered by the answer to such reference shall be subject to revision by the District Collector. (2) the District Collector shall not suo motu revise an order under sub-section (1) if that order has been passed more than three months previously. (3) An application under sub-section (1) by an aggrie- ved party shall be made before the expiry of thirty days from the date on which the order In question was communicated to him. 14 Power of revision of the Government.—The Govern- merit may, on application by any person aggrieved, call for and examine the record of any order passed by the District Collector suo motu under section 13, for the purpose of satis- fying themselves as to the propriety or regulanty of such order and pass such order in reference thereto as they think fit' 3/24A—6a 84 Provided that the Government shall not revise any order under this section after the expiry of sixty days from the date on which that order was communcated to the applicant: Provided further that an order to the prejudice of any person shall not be passed under this section unless that person has been given a reasonable opportunity to show cause against such order

15. Rectification of mistakes.—(1) The appellate authority or the revisional authority may, at any time within three years from the date Of an order passed by it on appeal or revision, as the case may be, and the assessing authority may, at any time within three years from the date of any assess- ment or order passed by it, or its own motion, rectify any mistake apparent from the record of the appeal, revision, assessment or order, as the case may be, and shall, within the like period, rectify any such mistake which has been brought to its notice by an assessee: Provided that no such rectification shall be made which has the effect of enhancing an assessment or reducing a refund unless the assessee has been given a reasonable opportunity of being heard in the matter. (2) Where any such rectification has the effect of re- ducing the assessment, the assessing authority shall make any refund which may be due to such assessee. (3) Where any such rectification has the effect of en- hancing the assessment or reducing a refund, the assessing authority shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable; and such notice of demand shall be deemed to be issued under section 10 and the provisions of this Act shall apply accordingly. 16 Revision of building tax when annual value is revised by local authority.—(1) Where the annual value of a building fixed by a local authority is enhanced or reduced under the law governmg that local authority on the ground that the annual value originally fixed was excessive or low, the build- ing tax levied under this Act shall be revised by the assessing authority In conformity with such

enhancement or reduction; 85 Provided that an assessment under sub-section (2) or sub-section (3) of section 6 shall not be revised under this sub-section. (2) The provisions of sections 10, 11, 12, 13, 14 and 15 shall apply to an order passed by the assessing authority under sub-section (1) as if it were an order passed by it under section 9

17. Power to take evidence on oath, etc.— The assessing authority, the appellate authority and the revisional authority shall, for the purpose of this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit, in respect of the following matters, namely:— (a) enforcing the attendance of any person and examining him on oath or affirmation; (b) compelling the production of documents; (c) issuing commissions



18. Payment of building tax.—Any amount specified as payable in a notice of demand under section 10, or an order under section 11 or section 13 or section 14 shall be paid in such number of instalments, within such time, at such place and to such person, as may be prescribed, and any assessee falling so to pay shall be deemed to be In default 19. Mode and time of recovery.—(1) When building tax is not paid on the due date, the arrears of the tax shall bear Interest at the rate of six per cent per annum from the date of default.

(2) The arrears of building tax and the interest, if any, thereon shall be a first charge on the building in respect of which it IS payable, and notwithstanding anything contained in any other law, the claim for such arrears and Interest shall have precedence over the claim for any tax levied by a local authority, and such amount shall be recoverable under the law for the time being in force relating to the recovery of arrears of public revenue due on land. 20 Refunds. —(1) If any person satisfies the assessing authority that the amount of building tax paid by him exceed the amount With which such person IS properly assessable under this Act, he shall be entitled to a refund of such excess (2) The appellate authority In the exercise of Its appellate powers or the revisional authority In the exercise of Its revisional powers, If satisfied to the like effect, shall cause a refund to be made by the assessing authority of any amount found to have been wrongly paid or paid in excess 21. False statements in declaration.—If any person makes a statement In a verification mentioned In section 7 or sub-section (2) of section 11 which Is false and which

he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described In section 177 of the Indian Penal Code (Central Act 45 of 1860) 22 Failure to furnish return.—(1) -If any person fails without reasonable cause or excuse to furnish In due time any return specified In sub-section (1) or sub-section (3) of section 7, the assessing authority, the appellate authority or the revisional authority may Impose a penalty which may extend to five rupees for every day during which the default continues. (2) The penalty Imposed under sub-section (1) may be recovered In the same manner as arrears of building tax 23. Power of inspection.—(1) The assessing authority or any officer authorised by the assessing authority, the appellate authority or the revisional authority . in this behalf may, after due notice, at any time between sunrise and sunset, enter any building for the purpose of collecting particulars relating thereto or for taking measurements of the building or any repairs or improvements or any constructions or additions or combinations and may require the owner of the building or any other person In charge or In occupation of the building to produce for inspection any book, register or record kept therein and ask for any information relating to the building or the repairs or improvements or the constructions or additions or combination, as the case may be, and the owner of the building or other persons in charge or occupation shall be bound to afford facilities for taking measurements and for such inspection, and to furnish such information as is available with him. (2) Any person who obstructs the assessing authority or other officer authorised in the exercise of the powers conferred on it or him by sub-section shall be punishable With imprisonment for a term which may extend to three months, or With fine which may extend to five hundred rupees, or With both 24. Prosecutions,—(1)

A person shall not be proceeded against for an offence under section 21 or section 23 except at the Instance of such officer as may be authorised by the Government in this behalf. (2) Before Instituting proceedings against any person under sub-section (1), the officer authorised under that sub-section shall call upon such person to show cause why proceedings should not be Instituted against him (3) The officer authorised under sub-section (1) may, either before or after the Institution of proceedings, compound any such offence other than an offence under section 23 25. Manner of service of notice.—(1) A notice or requisition under this Act may be served on the person therein named, either by post or as if it were a summons Issued by a court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908). (2) Any such notice or requisition may, In the case of a firm, Hindu undivided family or Aliyasanthana family or branch or Marumakkathayam tarwad or tavazhi or a family to which the provisions of the Kerala Nambudiri Act, 1958 (27 of 1958), apply, be addressed to any member of the firm or to the Manager, EJaman or Karanavan, or any adult member of the family, tarwad, tavazhi or branch and, in the case of any other association of persons, be addressed to the principal officer thereof 26. Power to make rules.—(1) The Government may, by notification In the Gazette, make rules for carrying out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for— (a) the determination of the capital value of buildings and cost of major repairs and improvements to the buildings; (b) the form of returns under section 7 and the manner In which they shall be verified, (c) the form of the notice of demand mentioned In section 10, (d) the mode and manner

of payment of building tax, (e) the powers and duties of authorities and officers under this Act and the relations of the authorities to each other t (f) the conditions of service of the assessing authorities and appellate authorities; (g) the



form in which appeals under this Act shall be presented and the manner in which they shall be verified, (h) the form of application under section 12 or section 13 or section 14, (1) the form of the notice of demand mentioned in sub-section (3) of section 15, (J) the manner in which and the authority to whom application for refund shall be made and the procedure to be followed in respect of such applications, and (k) any other matter which has to be, or may be, prescribed (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 27 Bar of suits etc., in courts.—No suit shall be brought in any civil court to set aside or modify any assessment made under this Act and no prosecution, suit or other proceeding shall lie against the Government or any authority or officer for anything in good faith done or intended to be done under this Act 28 Computation of period of limitation.—In computing the period of limitation prescribed for any appeal under this Act, the date on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded

29. Building tax not to be taken into account in fixing fair rent.—For the avoidance of doubt, it is hereby declared that in fixing the fair rent of a building under section 5 of the Kerala Building (Lease and Rent Control) Act, 1965 (2 of 1965), the rent control court shall not take into consideration the building tax that is payable in respect of the building under the provisions of this Act 30 Removal of any difficulty arises in giving effect to the provisions of this Act, the Government, as occasion may require, may by order do anything not inconsistent with the provisions of this Act for the purpose of removing the difficulty

31. Repeal and saving.—(1) The Kerala Building Tax Ordinance, (2) deemed to have been made in 1974 (16 of 1974), is hereby repealed Notwithstanding such repeal, anything done or have been done or any action taken or deemed to be taken under the said Ordinance shall be deemed to be done or taken under this Act. THE SCHEDULE (See section 5) Rate of building tax Capital value 1. Where the capital value of a building is Rs 20,000 or less 2. Where the capital value of a building exceeds Rs 20,000— Rate of tax (a) (b) (c) (d) (e) (f) on on on on on on the the the the the the first Rs. next Rs next Rs next Rs next Rs balance 5,000 25,000 50,000 50,000 50,000 of such of such of such of of such such excess excess excess excess excess 1 2 5 8 10 15 Nil per per per per per per cent cent cent cent cent cent